

Shetland Islands Council
14 September 2005 Public Minutes
Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 14 September 2005 at 10.30 a.m.

Present:

A J Cluness	F B Grains
L Angus	B Cheyne
C B Eunson	R G Feather
B P Gregson	L G Groat
I J Hawkins	J H Henry
J A Inkster	J C Irvine
E 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

G G Mitchell

In attendance (Officers):

M Goodlad, Chief Executive
G Spall, Executive Director – Infrastructure Services
A Cooper, Head of Development Resources
B Doughty, Interim Head of Social Work
C Ferguson, Community Care Manager
A Hamilton, Head of Planning
M Holmes, Coastal Zone Manager
D Irvine, Head of Business Development
A Jamieson, Head of Education
G Johnston, Head of Finance
I McDiarmid, Planning Control Manager
C Medley, Head of Housing/Capital Programme Service
I Millar, Projects Manager
J Riise, Head of Legal and Administration
G Smith, Head of Community Development
J Smith, Head of Organisational Development
S Moncrieff, ICT Unit Manager
C Nicolson, Capital Projects Manager
A Rolfe, Property Manager
P Wishart, Solicitor
L Adamson, Committee Officer
A Cogle, Service Manager – Administration

Chairperson

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

Circular

The circular calling the meeting was held as read.

The Minutes of the aforementioned meetings of the Council were approved, on the motion of Mr A J Cluness.

Min. Ref. 104/05 – Executive Committee – 21 June 2005 – Quality of Life Funding

Mr L Angus said he was pleased to see the advert in the local press for applications, and he hoped that a report would be presented to the Council in due course on the responses received.

126/05 **Members Attendance at External Meetings**

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	Planning Summer School CoSLA KIMO UK
L Angus	Vagsoy Twinning Association, Maloy TIGHRA
B P Gregson	Meeting with MoD Ministers
A J Cluness	Western Isles

127/05 **Infrastructure Committee – 29 June, 18 August and 30 August 2005**

Except as undernoted, the Council approved the minutes of the aforementioned meetings, on the motion of Mr J C Irvine.

Min. Ref. 42/05 – Progress Report on Development of Shetland Transport Strategy

Mr J C Irvine said he would be attending the CoSLA Roads and Transport Executive Group in Edinburgh tomorrow. He said that the Minister for Transport would be attending, and it was hoped that the Minister would be making an announcement to CoSLA as to the Executive's proposals.

Min. Ref. 51/05 – Local Plan Monitoring and Review of Housing Zones

Mr L Angus referred to the first paragraph on page 8, and advised that he had stated that “.. the zoning policy in Shetland had not been successful, and had ruined *the character of some rural areas*”.

128/05 **Services Committee – 1 September 2005**

Except as undernoted, the Council approved the minute of the aforementioned meeting, on the motion of Mrs F Grains.

Min. Ref. 58/05 - Social Work Fieldwork Service

Mr J C Irvine advised of his intention to raise this matter during consideration of the JCC minutes, in the private part of the meeting.

Min. Ref. 50/05 - Mid Yell Junior High School Extension Versus New Build

Mr L Angus said that justification for the new building could equally apply to the requirements for Bells Brae Primary School, and hoped that this could be taken on board. Mr L G Groat said that the Lerwick Primary Schools Review Group acknowledged the concerns raised.

Min. Ref. 54/05 - Capital Grant to Voluntary Organisations – Additional Resources for Water Based Facilities

The Head of Legal and Administration drew Members' attention to a briefing note which had been issued on this matter (Appendix A).

Mr J P Nicolson moved as an amendment that the Council agree that the upper grant limit imposed on the general Capital Grants to Voluntary Organisations Scheme remains at £100k, but that the Grant Aid Scheme for New Marinas has a limit of £500k. Mr T W Stove seconded.

During the discussion which followed, it was pointed out that the arguments had been fully addressed at the Services Committee, and it was suggested that to adjust the limit for new marinas in particular would be denying some areas the opportunity to develop. Members were in agreement that the £100k limit on general grants should be retained, as to remove this would result in most of the budget being taken up by existing marinas, due to their ability to raise matching funding. However, Members were in agreement that any limit on grants for new marinas was unnecessary.

After further discussion, during which the Head of Community Development clarified the terms of both grants, Mr J P Nicolson said that he would change his motion, with the consent of his seconder, that the Council retain the £100k limit on Grants to Voluntary Organisations, but that there be no limit on the New Marinas grant. Mr T W Stove agreed.

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

Amendment (J P Nicolson) 20
Motion/Minute (F B Grains) 1

It was confirmed that this decision resulted in the Capital Grants to Voluntary Organisations Scheme remaining at 75% grant aid up to a maximum limit of £100k, and the Grant Aid for New Marinas Scheme remaining at 80% grant aid, with no maximum limit.

129/05 **Executive Committee – 6 September 2005**

The Council approved the minute of the aforementioned meeting on the motion of Mr A J Cluness.

130/05 **Executive Committee – Economic Development - 6 September 2005**

Except as undernoted, the Council approved the minute of the aforementioned meeting on the motion of Mr W A Ratter.

Min. Ref. 32/05 - Economic Regeneration in Unst and Fetlar - Short Term Reduction in Ferry Fares

Mr W H Manson said that whilst he recognised that the revenue costs would fall to the Reserve Fund, he was of the view that it was not necessary to account for it separately. In this regard, Mr Manson moved as an amendment that the suspension of ferry fares stand, but that the cost implications be left as a General Fund item. Mr W A Ratter seconded.

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

Amendment (W H Manson) 12
Motion (W A Ratter) 4

131/05 **Executive Committee – Scrutiny - 6 September 2005**

The Council approved the minute of the aforementioned meeting on the motion of Mr A J Cluness.

132/05 **Civic Government Licensing Sub-Committee – 6/7 July and 17 August**

The Council approved the minutes of the aforementioned meetings, on the motion of Mr J P Nicolson.

133/05 **Planning Sub-Committee – 24 August 2005**

Subject to the following, the Council approved the minute of the aforementioned meeting, on the motion of Mr T W Stove.

Min. Ref. 05/05 - Planning Applications for Decision – 2004/436/PCD - To develop 15 serviced house sites with associated road (in outline), Hillside, Gulberwick by Mr D Leask

Mr A Inkster moved that the Council suspend Administrative Regulations, in order to allow the Council to reconsider this item, as he was unclear as to whether the views articulated at the meeting had been fully understood. Mr W H Manson confirmed that the minute was accurate.

The Convener permitted a vote by show of hands, and the result for a suspension of Administrative Regulations was as follows:

For 4
Against 14

Mr B P Gregson and Mr E Knight abstained from the vote. The Council resolved not to reconsider the matter.

134/05 **Harbour Board - 11 August 2005**

The Council approved the minute of the aforementioned meeting on the motion of Mr J G Simpson.

135/05 **Inter Island Ferries Board – 12 August 2005**

The Council approved the minute of the aforementioned meeting on the motion of Mr B P Gregson.

136/05 **Marine Development Sub-Committee – 30 August 2005**

The Council approved the minute of the aforementioned meeting on the motion of Mr W H Manson

Scottish Sustainable Marine Environment Initiative

Mr W H Manson said that he wished to advise Council that Shetland had, along with four other areas, recently been selected as a pilot project for the above initiative. Members agreed that this was a major development, and an exciting opportunity for Shetland. Members thanked the Coastal Zone Manager and his staff for keeping these issues in front of the Executive for years, and for securing Shetland as part of the pilot.

The Convener ruled that the following item of business would be considered at this meeting as a matter of urgency in terms of subsection 4 of section 50B of the Local Government (Scotland) Act, 1973 - Agenda Item 20 - Bressay Bridge: Court Action - Update.

Before proceeding to the next item of business, Mr L G Groat said that, after discussing his position with the Head of Legal and Administration, and as Chair of the Lerwick Port Authority, he no longer had the right to put a case for his constituents. Mr Groat declared a non-pecuniary interest in the following item, and the urgent item introduced by the Convener. Mr Groat left the Chamber.

Mr J Henry and Mr E Knight also declared an interest in both items, and left the Chamber.

137/05 **Notice of Motion – That the Council reconsider the means of a fixed link between Lerwick, on the Shetland mainland, and the island of Bressay**

A Notice of Motion, duly signed by 6 Members, was received by the Council (Appendix 1).

Mr T W Stove said that this was a situation where the two leading public bodies in Shetland were at loggerheads over this matter. He said this was not good for anyone, nor was it in the public interest. Mr Stove said that the terms of his motion was to have an open discussion on the means of a fixed link. He said that whilst the ferry service had provided a good link to the isles for years, the replacement cost of ferries and terminals required the Council to look at the possibility of fixed links, if only from the cost point of view.

Mr Stove said he had attended a meeting in Scalloway called by Lerwick Port Authority [LPA] in May this year. He said that the idea of a tunnel to Bressay was explained in detail, and LPA had accumulated a lot of data which they offered, in co-operation between bodies. However, Mr Stove said that this offer has not been taken up by the Council. Mr Stove said the preliminary estimate by LPA for the bridge was £16m and £6m for approach roads. This compares to the Council's estimate of £20m plus roads, although in 2001 it was quoted at £15m, but it was capped at £19m.

Mr Stove said that Orkney Islands Council was designing tunnels, as another consideration for the bridge is the amount of down time due to high winds. He said that another consideration would be the ongoing maintenance, although it was incorrect to say that a tunnel would not have any maintenance. Mr Stove referred to examples in the Faeroe Isles, where 4 miles of tunnels were in use, although it was recognised that the rock structure there was different. Mr Stove went on to say that it was known that there were several objections and that there would be a public inquiry, but he said that this would cost Shetland dear. Mr Stove said that Members should sit down and discuss the possibility of a tunnel and, accordingly, Mr Stove formally moved the terms of his motion that the Council reconsider the means of a fixed link between Lerwick and Bressay.

Mr J C Irvine moved, as an amendment, a direct negative to the motion. He said the Council had decided in February 2001 to build a high level bridge, and the decision was based on a detailed technical assessment and appraisal. Mr Irvine said that whilst he was always concerned about the timescale, the technical study explored a range of fixed links, including tunnels. Now, four years on, the Council had invested £1m so far, and this included the engagement of a designer, contractor, and planning costs. Mr Irvine said that there had been plenty of consultation, despite criticisms, and two years ago, the Planning Sub-Committee had met and considered three options. He said the third option was the one the Members went for, and when considering the submission of the application, and light of objections, etc., Mr Irvine said he had moved that the Council should taken the option of leaving the matter to the Scottish Executive to reach a conclusion on this. Mr Irvine said he wanted to make it very clear that there was no row between LPA and the Council, and any objections raised should have been made at the time of the Planning Sub-Committee. In conclusion, Mr Irvine said he believed that the Council had acted properly, and reiterated that his amendment was a direct negative to the motion. Mr W A Ratter seconded.

Mr J Simpson said he had put his name to the motion because he thought that more information was needed, and more debate.

Mr L Angus said he had supported the building of a bridge because of the technical appraisal, and no advice had been given since that showed tunnels to be much cheaper than before. Mr Angus said he was disappointed that a tunnel would cost more, but when he was Trustee of the Harbour Trust, he believed there was no question of the LHT objecting, other than to the height, and that had been resolved. Mr Angus also referred to correspondence received by all Members from the Chief Executive, Lerwick Port authority, and he was of the view that this correspondence was offensive, and was deplorable action for the Chief Executive of LPA to undertake.

During the discussion which followed, Members were generally of the view that it was disappointing that the Council was being challenged in this way. In addition, some Members were of the view that more

discussion and debate was needed, whilst others were content that the necessary steps had been taken with opportunities available to everyone to register their complaints. Members expressed also their concern for the electorate of Bressay, who were without direct representation on this matter from their elected Member.

In response to questions from Members, the Head of Legal and Administration advised that the signing of a notice of motion was a neutral process that allowed a matter to be debated and decided; it was based on personal judgement, and had no bearing on the decision.

By 17 votes for and 0 against, the Council unanimously agreed to a roll call vote, the results of which were as follows:

T W Stove	Motion
W Tait	Amendment
L Angus	Amendment
B Cheyne	Motion
A J Cluness	Amendment
C B Eunson	Motion
R G Feather	Amendment
F B Grains	Abstained
B P Gregson	Abstained
I J Hawkins	Amendment
J A Inkster	Amendment
J C Irvine	Amendment
W H Manson	Amendment
J P Nicolson	Amendment
W A Ratter	Amendment
F A Robertson	Amendment
J G Simpson	Motion
W N Stove	Amendment
Amendment	12
Motion	4
Abstentions	2

The amendment by Mr Irvine was declared the finding of the meeting.

[Mr J Henry, Mr E Knight and Mr L G Groat returned to the meeting.]

138/05 **Councillors Code of Conduct for Dealing with Planning Applications**
The Council agreed that this item be held over to a special meeting [see next item 139/05].

139/05 **Modernising the Planning System**
The Council agreed, on the motion of Mr J C Irvine, seconded by Mr W A Ratter, that this item, and the previous report on the Code of Conduct, be held over to a special meeting of the Infrastructure Committee, to be immediately followed by a special meeting of the Council, to which the

Convener concurred. It was further agreed that the draft letter of response be forwarded to the Scottish Executive, with a caveat that further representation may be made by the Council at a later date.

140/05 **Civil Partnership Act 2004 – Registration Arrangements**

The Council considered a report by the Head of Legal and Administration (Appendix 2) and adopted the recommendations contained therein, on the motion of Mr L Angus, seconded by Mr L G Groat. In response to a question, the Head of Legal and Administration confirmed that the matter of registration and ceremonies would be optional for home-based Registrars.

141/05 **Review of Local Government Electoral Boundaries**

The Council considered a report by the Head of Legal and Administration (Appendix 3).

Mr J Simpson suggested that the title “Isles” be changed to “North Isles”.

Mr J C Irvine referred to paragraph 4.1 of the report, and said that the letter to the Boundary Commission should contain all the reasons as to why Grista should not be placed within the West Shetland Ward. He added that he would wish to be involved with any future discussions with the Boundary Commission on this matter, and to meet in Edinburgh, if necessary. Mr J C Irvine accordingly moved that the Council adopt the proposals set out in the report, in addition to the suggestion made by Mr Simpson. Mrs I J Hawkins seconded, and the Council concurred.

142/05 **General Fund Revenue Management Accounts 2005/06 for the Period 1 April 2005 to 30 June 2005**

The Council considered a report by the Head of Finance (Appendix 4).

In response to a question from Mr L Angus, the Chief Executive confirmed that a full report on the funding requirements for ASN provision would be presented to the next cycle of meetings.

In response to a question from Mr T W Stove, the Chief Executive confirmed that Members’ expenditure was now back into line with budget.

143/05 **Long Term Financial Planning – Council Reserves and Budget Strategy 2006/07 and beyond**

The Council considered a report by the Head of Finance (Appendix 5).

During the discussion which followed, some Members expressed concern about continuing to invest a proportion of reserves in infrastructure, as well as being used to finance revenue spending or savings, or a combination of all three. The view was expressed that although everyone was keen to see new capital investment in infrastructure, the use of reserves could be seen to be on shaky ground.

It was suggested by some Members that Heads of Service should be required to take more ownership of the revenue problems, with a view to taking more ownership of the solutions. In general terms, Members were of the view that more information was needed with regard to the projected figures over the next 10 years.

Accordingly, Mr J P Nicolson moved that the Council accept the recommendations in the report, with the exception of paragraphs 13.1.5 and 13.1.6, and that the Head of Finance present a report to the Council based upon a 10 year extrapolation, assuming the continuation of current spending patterns, and on the basis of all other things being equal. Mr A Inkster seconded.

Mr A J Cluness moved as amendment that the Council adopt all the recommendations in the report, but that a report in the terms suggested by Mr Nicolson still goes ahead. Mrs B Cheyne seconded

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

Amendment (A J Cluness)	10
Motion (J P Nicolson)	8

144/05 **The Capital Programme – CPMT Report**

The Council considered a report by the Head of Finance (Appendix 6) and adopted the recommendations contained therein, on the motion of Mr W A Ratter, seconded by Mr W N Stove.

145/05 **Discussion regarding the Principles (and Weighting) for the Selection of Capital Projects and Future Programming**

The Council considered a report by the Head of Capital Programme Service (Appendix 7).

Mr L Angus moved that “and fulfilment of statutory obligations” be added to 4.3.1. Mr J C Irvine seconded, and the following Members were appointed to the Working Group:

J P Nicolson I J Hawkins A Inkster W H Manson F B Grains

146/05 **Island Games Funding**

The Council considered a report by the Head of Finance (Appendix 8).

Mr W N Stove declared a non-pecuniary interest, and added his thanks to the Council for their quick action in this matter. He said that whilst this difficulty had been due to cash flow, and although it was still too early a stage to predict, it was possible that a deficit would occur.

On the motion of Mr A Inkster, seconded by Mr W H Manson, the Council resolved to note the action taken.

- 147/05 **Customer First/Modernising Government Fund – Round 3 Update**
The Council considered a report by the ICT Unit Manager (Appendix 9) and adopted the recommendations contained therein, on the motion of Mr A J Cluness, seconded by Mr B P Gregson.

- 148/05 **Update Report on the Rollout of ADSL Broadband in Shetland**
The Council noted a report by the ICT Unit Manager (Appendix 10).

- 149/05 **The Johnsmas Foy**
The Council considered a report by the Head of Planning (Appendix 11), and adopted the recommendations contained therein, on the motion of Mr L Angus, seconded by Mr W A Ratter.

- 151/05 **Crown Estate Review Working Group**
The Council considered a report by the Coastal Zone Manager (Appendix 13) and adopted the recommendations contained therein, confirming that the Council should continue to be represented on the Working Group, with the lead officer being the Coastal Zone Manager, with attendance by a Member when necessary. It was suggested that Mr Manson or Mr Robertson, as Chairperson and Vice-Chairperson of the Marine Development Sub-Committee, would be the most appropriate Members to attend, when necessary.

- 150/05 **CoSLA – Scottish National War Memorial**
The Council noted a report by the Head of Legal and Administration (Appendix 12).

Mr L Angus said that, despite previous assurances, the War Memorial on the Hillhead required restoration to the lettering and was still in need of cleaning. He asked that officers take this on board as soon as possible, and the Council concurred.

- 152/05 **Request for Funding – Belmont Trust**
The Council considered a report by the Head of Business Development (Appendix 14) and adopted the recommendations contained therein, on the motion of Mr B P Gregson, seconded by Mr J P Nicolson.

- 153/05 **Appointment of Councillors onto North Isles Action Committee**
The Council considered a report by the Head of Business Development (Appendix 15) and adopted the recommendations contained therein, on the motion of Mr T W Stove, seconded by Mr B P Gregson.

In order to avoid the possible disclosure of exempt information, the Council resolved, on the motion of Mr A J Cluness, seconded by Mr B P Gregson, in terms of the relevant legislation, to exclude the public during consideration of the following items of business.

- 154/05 **Land at Scatsta – Proposed Use**

The Council considered a report by the Head of Legal and Administration and adopted the recommendations contained therein, on the motion of Mr A J Cluness, seconded by Mr J C Irvine.

155/05 **Purchase of a Lektriever**

The Council considered a report by the Head of Legal and Administration and adopted the recommendations contained therein, on the motion of Mr B P Gregson, seconded by Mr W H Manson.

156/05 **Minute of Special Employees Joint Consultative Committee – 1 September 2005**

The Council noted the minute of the aforementioned meeting.

158/05 **Viking Energy Ltd – Ecological Study – Environmental Impact Assessment**

The Council considered a report by the Head of Development Resources and adopted the recommendation contained therein, on the motion of Mr W A Ratter, seconded by Mr B P Gregson.

[Mr L G Groat, Mr E Knight and Mr J Henry each declared an interest in the following item, and left the meeting.]

158/05 **Bressay Bridge: Court Action – Update**

The Council considered a tabled report by the Acting Divisional Manager – Legal, and noted the information provided.

CONVENER