

**Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 3 December 2008 at 10am**

Present:

L Angus	L F Baisley
J Budge	A J Cluness
A T J Cooper	A T Doull
E L Fullerton	F B Grains
I J Hawkins	R S Henderson
J H Henry	A J Hughson
W H Manson	C H J Miller
R C Nickerson	F A Robertson
G Robinson	J G Simpson
C L Smith	J W G Wills
A S Wishart	

Apologies:

A G L Duncan

In attendance (Officers):

M Goodlad, Chief Executive
W Shannon, Assistant Chief Executive
H Sutherland, Executive Director, Education and Social Care
G Johnston, Head of Finance
D Hughson, Financial Accountant
G Greenhill, Executive Director, Infrastructure Services
S Cooper, Head of Environment and Building Services
D Williamson, Building Services Manager
M Craigie, Head of Transport
I Halcrow, Head of Roads
I McDiarmid, Head of Planning
M Holmes, Coastal Zone Manager
J Smith, Head of Organisational Development
A Edwards, Quality Improvement Manager
N Grant, Interim Head of Economic Development
R Williamson, Union Representative
K Adams, Solicitor
G Gilfillan, Property Officer
A Cogle, Service Manager - Administration
L Adamson, Committee Officer

Also:

F Mitchell-Knight, Audit Scotland
L Brown, Audit Scotland
C Grant, Audit Scotland
J Jordan, Audit Scotland

Chairperson

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

Circular

The circular calling the meeting was held as read.

Declarations of Interest

Agenda Item 11: Mr A T J Cooper and Mr L Angus declared an interest in this item. Mrs C H J Miller declared an interest as a Council representative on the Steering Group, and would take part in the debate, but would take no part in any vote.

Agenda Item 13: Mrs B L Fullerton declared an interest as Chairperson of NHS Shetland. Mr A J Cluness declared a non-pecuniary interest as a member of NHS Shetland Board.

Agenda Item 12: Dr J W G Wills declared an interest due to family connections within the Education Service.

162/08 **Shetland Islands Council – 9-20 October 2008, and 22 October 2008**

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

9-20 October 2008 – 138A/08 Recruitment of Executive Director – Infrastructure Services

Mr A T J Cooper said that Members would benefit from further training and discussions on the interview processes when recruiting senior officers, and proposed that the Chief Executive prepare reports on these matters for consideration by Members.

163/08 **Members Attendance at External Meetings**

Mr F A Robertson CoSLA Briefing Session on Carbon Reduction Commitment – 20-23 November 2008

164/08 **Petitions**

There were no petitions.

165/08 **Development Committee – 13 November 2008**

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

47/08 – Broadband and Communications

In response to a question from Dr J W G Wills, the Interim Head of Economic Development advised that the meeting was still to take place with the agencies involved and the Scottish Government, and the outcome would be reported to Development Committee in January.

51/08 – Scatness Broch – Request for Funding

Mr L Angus proposed that the Council request Shetland Charitable Trust to review Shetland Amenity Trust's endowment fund, in view of the current financial climate. The Convener said that SCT's Chairperson and Vice-Chairperson would note this request.

166/08 **Infrastructure Committee – 18 November 2008**

Except as undernoted, the Council confirmed the minute of the aforementioned meeting, on the motion of Mr A S Wishart.

86/08 – Minutes of ZetTrans – 3 November 2008

Referring to the discussions on the disparity of fuel prices with the mainland, Mr A S Wishart proposed that the Council request the Chief Executive to obtain resources to carry out a preliminary feasibility study into the storage of fuel at Sullom Voe.

In response to a question from Mrs I J Hawkins, Mr Wishart advised that the meeting with GB oils had not taken place, however they would continue to press for the meeting.

83/08 – A971 Haggersta to Cova. Report on Progress and on Conclusion of Safety Audit

Mrs F B Grains stated that the correct plan of the road should accompany the submission to the Scottish Government.

81/08 – 20mph Speed Limits at Schools. Progress Report and Discussion of Vehicle Activated Signs

Dr J W G Wills stated that the minute correctly reflects the decision that 20mph speed limits at schools would be complete by the end of 2009. However he noted that the same assurance had not been given in the report at Item 6 on the agenda.

72/08 – Prioritisation of Infrastructure and Ports and Harbours Capital Projects

Dr J W G Wills advised of an amendment to the minute, where the 9th paragraph should be changed to read "... Anderson High School was costing 45% more than was necessary, and queried".

167/08 **Audit and Scrutiny Committee – 28 October and 19 November 2008**

The Council confirmed the minutes of the aforementioned meetings, on the motion of Mrs F B Grains.

19 November 2008 – 38/08 – Internal Audit – Six Monthly Internal Audit Progress Report 2008/09

In response to questions from Dr J W G Wills regarding the VAT situation with the Mareel project, it was reported that an explanatory e-mail had been sent to Members. The Head of Finance clarified that there would be no loss to the Council, however he would follow this up with the relevant officers, who would provide further explanation to Dr Wills.

19 November 2008 – 42/08 – Items for Further Discussion

Dr Wills made reference to his proposal that Audit and Scrutiny Committee discuss governance of the Council and the roles of Convener/Civic Head, when it was established that this was not for the Committee to discuss, and that legal advice should be sought. The Convener advised that the Council would not be debating this matter today.

168/08 **Services Committee – 20 November 2008**

Except as undernoted, the Council confirmed the minute of the aforementioned meeting on the motion of Mr L Angus.

103/08 – Prioritisation of Education and Social Care Capital Projects

Mr L Angus advised that on page 8 of the minute, in reference therein to the Financial Review Panel, the sentence should be changed to read “After hearing the Chairperson explain that the proposal to present....”

102/08 – New Anderson High School Capital Project Update

Mr L Angus advised that the appointment of the Project Manager would be announced tomorrow.

Dr J W G Wills referred to the decision that the comments made by AHS staff would be circulated to Members. The Executive Director, Education and Social Care clarified that she would follow up her request for the information to be provided.

169/08 **Planning Board – 5 November 2008**

The Council confirmed the minute of the aforementioned meeting on the motion of Mr F A Robertson.

170/08 **Harbour Board – 6 November and 18 November 2008**

The Council confirmed the minutes of the aforementioned meetings on the motion of Mr A T J Cooper.

29/08 - Prioritisation of Infrastructure and Ports and Harbours Capital Projects

Mrs B Fullerton noted a correction to the minute, in that the 4th paragraph on page 2 should be changed to read “.... that she would prefer to see the £1.5m allocated to take forward the dredging at Scalloway, until a decision was made on who should take on the Peerie Dock at Whalsay”.

171/08 **Licensing Sub-Committee – 14 November 2008**

The Council confirmed the minute of the aforementioned meeting on the motion of Mr C L Smith.

172/08 **Abstract of Accounts 2007/08 and Report by the Auditor**

The Council considered a report by the Head of Finance (Appendix 1).

The Convener said that in relation to the group accounts, it was hoped that a solution would be found in early course.

The Head of Finance introduced the report and clarified that the main issue was that the group accounts do not include the Shetland Development Trust (SDT) and the Shetland Charitable Trust (SCT). He advised that the accounts of the SDT would be included in future years, however the inclusion of the SCT accounts was an ongoing matter, and required the agreement of the SCT.

Ms F Mitchell-Knight, Audit Scotland said that Audit Scotland was pleased that the SDT results would be included next year. She then summarised the key outcomes in 2007/08, the action points to move forward, and drew Members’ attention to the Action Plan in Appendix 1.

In response to a question from the Convener regarding the Financial Review Panel (FRP), Ms Mitchell-Knight advised that the Council should determine what arrangements are required for budget monitoring, with Audit Scotland being more interested in how effective the arrangements were and progress made. Mr R C Nickerson said that he considered that the FRP was the body to take efficiency savings forward, and moved that the Council approve the recommendation in the

report, with the addition that the Financial Review Panel should be reconvened as soon as possible. Dr J W G Wills seconded.

The Chief Executive advised that the FRP had been established during the last budget setting process, and had remained to be used to agree efficiencies, however the clear decision of Council had been not to continue with the FRP.

(Mr W H Manson declared an interest, as the Chairperson of SCT).

Mr W H Manson referred to Mr Nickerson's motion, and explained that the FRP had been set up in the early stage of this Council, for a particular purpose, which was largely complete. At that time there had also been the Council's Executive Committee as a further financial monitoring body, however neither of the groups were still in place. Mr Manson moved, as an amendment, that a report be brought forward to the next Council, on how best the Council can monitor financial matters. In seconding, Mrs C H J Miller said that the report should include the remit and composition of the monitoring group.

During the discussion Mr L Angus commented that the Auditor's report included little reference to the quality of services provided to the community e.g. housing, roads, ferries, education, social care and arms length services, with Shetland comparing very highly against other Local Authority areas. Mrs B L Fullerton noted that the Auditor's report included some favourable reports on the Council's performance, however she agreed with Mr Angus that there could have been additional praise for some of the services provided by the Council. Regarding the FRP, Mrs Fullerton noted the Auditor's reference in the report and the Action Plan that the FRP had been worthwhile, allowing Members and Officers to discuss issues in an informal setting.

In response to questions from Mrs Fullerton, Ms Mitchell-Knight explained that the reference to Nursing Care, on Page 39 of Appendix B, had been included in a national context and was not relevant to Shetland Islands Council. Ms Mitchell-Knight advised that she would provide Mrs Fullerton with further detail on the differential between personal care and domestic care in the provision of care at home.

In response to questions from Dr J W G Wills, Ms Mitchell-Knight advised that the membership of the SCT was not the only issue regarding the requirement of the SCT's accounts being grouped with the Council, as the Trust's relationship with the Council, and the services delivered would also have to be taken into account. Ms Mitchell-Knight advised that the reference in the report to the Council's inadequate management of major capital projects, with projects being deferred and additional money incurred, had been acknowledged by the Council, with improvements being made in this area, and these procedures would be monitored.

(Mrs B L Fullerton and Mr L Angus gave notice of further amendments).

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

Amendment (Mr W H Manson)	11
Motion (Mr R C Nickerson)	9
Abstention (Mr L Angus)	

Mrs B L Fullerton moved, as an amendment, that the report should include consideration of the remit of the FRP. Mr Manson agreed to include Mrs Fullerton's amendment into his motion.

Mr L Angus moved as an amendment that the Chairperson, Vice-Chairperson and Spokespersons of each Committee should act as a FRP, rather than have a separate FRP group, with officers and stakeholders asked to prepare 6-monthly financial monitoring reports for each Committee. Following consideration, Mr Manson agreed to add to his motion that Mr Angus' proposal should be included for consideration within the report.

(Mrs I J Hawkins left the meeting).

173/08

Long Term Financial Planning: Impact of World Financial Crisis

The Council noted a report by the Head of Finance (Appendix 2).

The Head of Finance introduced the report and advised that the main conclusions were wide ranging, however his recommendation would be for the Council to maintain its current spending until the balance sheet is complete, in June 2009. As regards investments, the Head of Finance said that his advice would be to maintain the positions as regards the various Fund Managers, in the hope that in the long-term the predicted long-term rates of investments will come to pass.

Mrs B L Fullerton said that she welcomed the report and agreed with the conclusions contained therein, however she said the Council should continue to look for savings wherever possible. Mrs B L Fullerton moved that the Council approve the recommendation in the report. Mr A J Cluness seconded.

(Mrs I J Hawkins returned to the meeting).

During the discussion Mr R C Nickerson enquired how long the Council could wait before cashing in its cash reserve investments. The Head of Finance said that the reserves were sustainable and appropriate until at least June 2009, when the situation would be reviewed.

Dr J W G Wills referred to his request that the Head of Finance prepare a reasonably robust estimate of the likely reduction in income from the investments, the effect on the Council's income from interest rate reductions, and for clarity on the Harbour Surpluses. The Head of Finance advised that the points raised would be matters to review in due course, and with the reports from the Fund Managers to feed into the review, would be prepared when the balance sheet becomes available in June 2009.

174/08

Community Council – Financial Position

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

(Mr L Angus declared an interest as a Member of Lerwick Community Council, Mr R Nickerson declared an interest as a Member of Dunrossness Community Council, and Mrs I Hawkins declared an interest as a Member of Scalloway Community Council).

In response to a question from Ms L Baisley, the Head of Finance explained that the report sets out the current framework whereby any balance of unspent grant at the end of the year would be deducted from the following year's grant. He went on

to say that there has been an emerging pattern of the Council waiving this condition when there are isolated cases of relatively minor amounts of unspent balances at the end of the year.

Mr G Robinson referred to the recommendation in the report, and moved that the Council approve that the surplus balance held by Unst Community Council should not be deducted from the 2009/10 grant. Ms L F Baisley seconded.

In response to questions from the Head of Finance, Mr Robinson clarified that the current framework should continue, with future decisions made on a case by case basis. In response to a question from Mr J G Simpson, the Head of Finance advised that the practise where Community Councils could carry forward up to 10-12% of the grant into the following year had previously been the case, however current policy states that surplus balances held at the year end will be deducted until the Council agrees otherwise. The Convener proposed that the conditions of the scheme could be reviewed at a later date.

175/08

Progress Report – Capital Programme

The Council considered a report by the Head of Capital Programme (CPS) and Housing Services (Appendix 4).

Mr L Angus stated that the Capital Programme process had caused a lot of angst within the Council, and there was very little room for other capital projects. Mr Angus moved that the Council call for a moratorium on any new capital projects until such time as the outstanding works are complete, and that the current projects continue to be worked up. Mr A S Wishart seconded.

Mr R C Nickerson said that he found it disturbing to get a list of rolling projects, to raise the budgets from 72% to 100% funding, with no particular justifications, and also questioned whether the works could be carried out before the end the financial year. Mr Nickerson referred to the recommendations in the report, and moved, as an amendment, that the Council does not approve the allocation of slippage.

The Head of Roads advised that the Roads Service would be in a position to spend the additional allocation to the Roads Rolling Programme, with a number of schemes ready to progress.

Mr C L Smith stated that the £1m slippage was a substantial amount of money, and he questioned whether all the rolling programmes required the maximum funding. He then commented that the Little Tykes nursery was desperately in need of funding and proposed that the funding could be split. Mrs B L Fullerton noted that the total slippage was over £2m, and said that she had some concern as regards Mr Nickerson's amendment.

Mrs C H J Miller noted that the report included no reference to the decision that 20mph speed limits should be introduced at all schools in Shetland. The Head of Roads advised that the matter was included at Item 6 on the Agenda, with an additional £80,000 of slippage being requested.

(Mrs I J Hawkins, Dr J W G Wills and Mr W H Manson gave notice of further amendments).

Mr A Wishart said that with the projects already committed, and an indication of underspend/slippage available which could be allocated to the rolling programme, he asked that top-level analysis be brought forward to allow a more corporate view.

It was noted that Mr Nickerson's amendment had received no seconder.

Mrs I J Hawkins moved, as an amendment, that the Council approve the recommendations in the report, as a number of the projects were very important and should be progressed before the end of the financial year. Ms L F Baisley seconded.

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

Amendment (Mrs I J Hawkins)	6
Motion (Mr L Angus)	14

Dr J W G Wills moved as an amendment that the Council resolves to revisit its grant aid commitment to the Mareel project in view of the significant deterioration in the Council's financial circumstances over the past six months, and that the Chief Executive bring a report to the next Council meeting on how the Council may assist a modified project at lower costs. Mr G Robinson seconded.

The Convener advised that this matter had already been decided by the Council, and to reconsider the matter would require a suspension of administrative regulations. Accordingly Dr Wills requested that the administrative regulations be suspended, and asked for a roll call vote. Mr A J Cluness agreed to the request.

For	Against	Abstention
Dr J W G Wills Mr L Angus Mrs B L Fullerton Mr R S Henderson Mr G Robinson	Ms L F Baisley Mr J Budge Mr A J Cluness Mr A T J Cooper Mr A T Doull Mrs F B Grains Mrs I J Hawkins Mr J H Henry Mr W H Manson Mrs C H J Miller Mr R C Nickerson Mr F A Robertson Mr J G Simpson	Mr A S Wishart Mr A J Hughson Mr C L Smith
5	13	3

Mrs B L Fullerton moved, as an amendment, that the report be deferred until the next Council meeting, following the Capital Programme Prioritisation Seminar on 15 December. Mr R S Henderson seconded.

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

Amendment (Mrs B L Fullerton)	7
Motion (Mr L Angus)	13

Capital Projects Progress Report

The Council considered a report by the Building Services Manager (Appendix 5).

The Building Services Manager summarised the main terms of the report. Mr L Angus said that carrying out emergency repairs at weekend was an enormous cost to the Council, and should it not be possible for these repairs to be carried out in-house due to the lack of staff, then contactors should be brought in. The Building Services Manager advised that maintenance budgets for all Council premises were at a low level, and the report proposes that unallocated slippage should be considered to fund some of the larger maintenance items from capital. Mr L Angus moved that the Council approve the recommendation in the report. Mr W H Manson seconded.

Mrs B L Fullerton moved as an amendment, that the Council approve the recommendations in the report, with the addition that the Little Tykes Nursery progresses.

The Building Services Manager advised that the Little Tykes Nursery was not included in the specific projects for approval in this report.

In response to a question from Mr A T J Cooper, the Building Services Manager clarified that the additional funding would allow design work to be undertaken for projects to be ready to start in the next Financial Year.

In response to a statement from Mr C L Smith, the Building Services Manager advised that the failure of copper pipework was a serious issue in a number of Council properties, and not purely the AHS. He went on to say that it was difficult to replace all the pipework, however work was ongoing with the AHS pipe replacement, but until all the pipes are replaced the problem cannot be entirely eliminated.

Mrs I J Hawkins seconded.

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

Amendment (Mrs B L Fullerton)	3
Motion (Mr L Angus)	16

Major Road Improvements 2008/09: Progress Report

The Council considered a report by the Network and Design Manager (Appendix 6).

In response to a question from Dr J W G Wills regarding progress on the decision for funding to be sought to install 20mph speed limits at all schools, the Head of Roads advised that the reporting mechanism to bring this forward would be Infrastructure Committee. The Head of Roads added that there were a few of the remoter schools where the 20mph speed limit would not be installed.

In response to a question from Ms L F Baisley regarding light pollution, the Head of Roads advised that wherever possible the street lighting replacements are the type that greatly reduces the light into the sky.

On the motion of Mr F A Robertson, seconded by Mr J G Simpson, the Council approved the recommendations in the report.

- 178/08 **Prioritisation of Asset and Properties Unit General Fund Capital Programme**
The Council considered a report by the Acting Asset and Properties Manager (Appendix 7).

In response to questions from Members, the Property Officer provided advise on the Council's obligation to carry out maintenance works at the Ness of Sound dry stone dyke. Regarding the obligation to make Council buildings accessible to the disabled to comply with the Disability Discrimination Act, the Property Officer explained that there was a duty to remove barriers and carry out reasonable adjustments, however there was not a requirement for disabled access to all floors of a building.

On the motion of Mr A J Cluness, seconded by Mr J G Simpson, the Council approved the recommendation in the report.

- 179/08 **Sustaining Shetland: Annual Monitoring of Social, Economic, Environmental and Cultural Trends**
The Council considered a report by the Head of Organisational Development (Appendix 8).

The Head of Organisational Development summarised the main terms of the report. Mr R C Nickerson highlighted the information on the decrease in business start-ups, and the significant annual income for charities. Mrs I J Hawkins referred to the birth and death rates figures and stated that it was important to try to retain young people in Shetland. Mr J H Henry referred to drug and alcohol misuse figures and noted the alarming increase in the number of hospital admissions directly related to alcohol.

Ms L Baisley complimented the author on the excellent summary information. The Council approved the recommendation in the report on the motion of Mr A J Cluness, seconded by Mr J G Simpson.

- 180/08 **Voluntary Sector Company**
The Council considered a report by the Head of Organisational Development (Appendix 9), and approved the recommendations contained therein on the motion of Ms L F Baisley, seconded by Mr A J Cluness.

Ms L Baisley noted that the 4th bullet point on Page 5 should read, "We believe that a diverse community and voluntary sector is fundamental..."

- 181/08 **Membership of Audit and Scrutiny Committee**
The Council considered a report by the Head of Legal and Administrative Services (Appendix 10).

Mr R C Nickerson was nominated, but declined acceptance.

Mrs C H J Miller nominated Ms L F Baisley, and Mrs B L Fullerton seconded. Ms Baisley accepted the appointment.

- 182/08 **Single Status**

The Council considered a report by the Head of Organisational Development (Appendix 11).

The Head of Organisational Development summarised the main terms of the report. He advised on the consultation process with staff attending meetings and briefings, and reported that to date 1100 questionnaires had been returned with the majority of staff supporting the proposals. A summary of the main comments was included in the Appendix to the report, and the information would be disseminated to managers for more detailed discussions with staff. The Head of Organisational Development referred to the recommendations in the report and said that the next step would be for the formal offers to be made to staff, and to work to bring Single Status to a conclusion.

Mrs C H J Miller said that the process had worked well, with the majority of staff in favour of the proposals. Mr G Robinson concurred, and confirmed that on the whole the results had been positively received, however there were still a number of issues to be looked at.

Mr R C Nickerson referred to Section 4.4 of the report, and asked that a timetable be drawn up to ensure that the issues with the outstanding staff groups are resolved. Mr J G Simpson referred to progress with the evaluation of Economic Development staff and said that the TUPE transfer process would soon be complete. He added that the final set of proposals should be offered to all affected staff as soon as possible and that Members should be kept informed of progress.

During the discussion Mrs B L Fullerton asked for reassurance that care workers would be paid at a level they deserve, particularly with the current issues regarding recruitment to the service.

The Chief Executive commented that he was aware that a significant proportion of staff were not content with the latest proposals.

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

183/08 **Recruitment and Selection Policy: Head Teachers and Depute Head Teachers - Amendment**

The Council considered a report by the Head of Schools Service (Appendix 12), and approved the recommendation contained therein on the motion of Mr L Angus, seconded by Mr A Cooper.

In order to prevent the disclosure of exempt information, Mr A J Cluness moved, Mr C L Smith seconded, and the Council resolved, in terms of the relevant legislation, to exclude the public during consideration of the following items of business.

Mr A J Cluness moved that a Press Release would be prepared on the outcome of discussions regarding Agenda Item 13. Mr J G Simpson seconded.

184/08 **Funding Arrangements for Temporary Care Home for Lerwick at Montfield**

The Council considered a report by the Executive Director of Education and Social Care.

Mr L Angus stated that the proposals in the report would allow the Council to provide a temporary care home at Montfield, and moved that the Council approve the recommendations in the report. Mr C L Smith seconded.

(All officials, with the exception of the Chief Executive, Service Manager – Administration, and the Committee Officer, left the meeting).

185/08 **Staffing Structures**

The Council considered a report by the Chief Executive.

Mr L Angus moved that the Council approve the recommendations in the report, with the exception of Recommendation 6.1, which he proposed should be deferred for one cycle. Mr A S Wishart seconded.

Mr C L Smith moved as an amendment, that the Council approve the recommendations in the report, with the exception of Recommendation 6.6. Dr J W G Wills seconded.

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

Amendment (Mr C L Smith)	5
Motion (Mr L Angus)	12

The meeting concluded at 12.30pm.

A J Cluness
Convener