

MINUTE

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Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 22 October 2008 at 10.00am

Present:

L Angus	L F Baisley
A J Cluness	A T J Cooper
A T Doull	A G L Duncan
E L Fullerton	F B Grains
I J Hawkins	R S Henderson
J H Henry	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:

J Budge	A J Hughson
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In attendance (Officers):

M Goodlad, Chief Executive
W Shannon, Assistant Chief Executive
G Johnston, Head of Finance
M Craigie, Head of Transport
J Smith, Head of Organisational Development
W Goudie, Project Manager, Shetland Development Trust
S Moncrieff, ICT Unit Manager
I Halcrow, Head of Roads
J R Riise, Head of Legal and Administration
A Cogle, Service Manager - Administration
L Geddes, Committee Officer

Chairperson

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

Circular

The circular calling the meeting was held as read.

Declarations of Interest

There were no declarations of interest.

138/08 **Shetland Islands Council – 10 September 2008**

Except as undernoted, the Council approved the minutes of the aforementioned meeting, on the motion of Mr A J Cluness.

121/08 - Long Term Financial Planning: Council Reserves and Budget Strategy 2009/10 and Beyond

It was noted that the second sentence should refer to the budgets for 2008/09.

- 139/08 **Members Attendance at External Meetings**
 Mr R S Henderson Scottish Government Local Energy Groups –
 Edinburgh, 7 October
- Mr L Angus CPMR General Assembly, Brussels 1-3 October
- Mr J G Simpson Scottish Fisheries Council – Edinburgh, 9 September

- 140/08 **Petitions**
 There were no petitions.

- 141/08 **Development Committee – 2 October 2008**
 The Council confirmed the minute of the aforementioned meeting, on the motion of Mr J G Simpson.

- 142/08 **Infrastructure Committee – 7 October 2008**
 The Council confirmed the minute of the aforementioned meeting, on the motion of Mr A S Wishart.

68/08 - Whalsay Link - Progress Report

Mr J G Simpson clarified that he had requested that the studies should take account of the ground swell, in addition to the surface motion and wind.

- 143/08 **Audit and Scrutiny Committee – 8 October 2008**
 Except as undernoted, the Council confirmed the minute of the aforementioned meeting, on the motion of Mrs F B Grains.

32/08 – Private Use of Council Vehicles

Mr R C Nickerson moved, as an amendment, that the Council did not request that officers produce a report on community skip services, and Mr G Robinson seconded.

During the discussion that followed, some Members were of the view that a brief report to explain the current situation and addressing any possible inefficiencies would be beneficial for Members. It was noted that staff had been appointed, as there were concerns that the community skip service would be lost unless there was some way of dealing with hazardous materials.

However other Members pointed out that the Safety & Risk Manager had clarified that the Council would be liable if someone placed hazardous materials in a skip, and that there was therefore no other way of dealing with this issue. It was further suggested that the report that had previously been presented to Members should be circulated again in order to inform them about the service, rather than asking officers to produce a new report.

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

Amendment (Mr R C Nickerson)	6
Motion (Mrs F B Grains)	13

35/08 – Capital Project Management

Dr J W G Wills clarified that that he was not suggesting that the costs for Mareel had risen to £8.4 million, but that this was the potential cost of all the projects referred to.

144/08 **Services Committee – 9 October 2008**

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

The Convener referred to the recent developments regarding the purchase of land in the Staney Hill area for housing, and said that the Services Committee would be taking this forward.

Mr L Angus added that this was good news for the Council, and he hoped that any issues relating to planning and infrastructure could be resolved at an early date in order that work could commence as soon as possible.

86/08 - Shetland's Cultural Strategy: Draft for Consultation

Mr R C Nickerson requested that the above item be presented to the Tourism and Culture Panel. Mr J G Simpson, Chairperson of the Panel, agreed to this request.

145/08 **Planning Board – 29 September 2008**

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

146/08 **Harbour Board – 25 September 2008**

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

27/08 - Port Project Monitoring Report: Symbister Dock

Mr J G Simpson said that he felt that not enough consideration was being given to stabilising the foundation in order to help address the safety issues.

Mr A T J Cooper advised that a meeting had taken place in Whalsay with the Engineer and community representatives, and that possible solutions were being explored. However the current proposals relating to the safety barrier appeared to be acceptable to the community.

147/08 **SIC Revenue Management Accounts 2008/09: General Fund, Harbour Account, Housing Revenue Account and Reserve Fund for the Period 1 April 2008 to 31 August 2008**

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

The Head of Finance summarised the main terms of the report, advising that all the main Council accounts were either equalling or exceeding financial targets, and that this was a good platform for the budget preparation exercise and for financing the Single Status deal. However the situation relating to the current financial markets showed a bad underlying position, and this would reflect on the Council reserves, Pension Fund and Shetland Charitable Trust investments, and he advised that he intended to present a detailed report to the next meeting of the Council. He went on to say that he had taken advice from fund managers and financial advisors, and proposed that the Council's approach should be consistent with its approach during previous falls in world markets, namely to "sit tight and ride out the storm". The Council was in a fortunate position in that it did not have to liquidate its assets when the markets were at their lowest, so it was right that it

should not do so. He advised that he would arrange to distribute the weekly fund management report to all Members during this critical period.

In response to a query regarding whether there was a need for the Council to revisit its budgets given the current situation, the Head of Finance said that he was of the view that as the Council's financial planning was based on a long-term view of the markets, he would only argue for change in the current spending patterns and plans if he felt that the long-term prospects of the markets were permanently impaired. He was currently of the view that the Council should continue with its current policies and plans, and he would not advise drastic alterations of course in the middle of a crisis. A review would be carried out in due course in light of the outturn results. It was also necessary for the Council to be mindful of its important position in the Shetland economy, and any drastic action at this point could have a knock-on effect on the Shetland economy.

The Head of Finance went on to confirm that it was Council policy not to place any investments into Icelandic banks but to stay with higher graded UK banks where the risks would be diminished to a great degree by the Government guarantee, so there had not been any lost deposits. With regard to shareholdings, the Council's involvement in derivative markets was non-existent. However the falls in the conventional sectors of the world markets did mean that there were significant losses. He went on to say that the Council made medium to long-term investments in the stock markets, and he felt that the right time for the Council to consider its spending plans would only be when the outturn results for this financial year were received. He counselled against a 'knee-jerk' reaction to the relatively recent events.

Members questioned if it was the case that budgets were set too high, given the current level of underspends.

The Head of Finance said whilst the level of underspends could be regarded as a failure to use the resources allocated, many of the underspends related to a lack of demand or difficulties in providing the level of service the Council wished to provide in some areas, such as social care services. He was confident that there was a good explanation for many of the underspends, but would reiterate to Budget Responsible Officers that they should budget on a realistic basis.

It was noted that many of the underspends in social care related to a failure to recruit, which was a matter of great frustration. Whilst ways of addressing this were being considered, it had to be borne in mind that this also resulted in unmet need.

It was questioned if it would be possible for the Council to adopt a strategy of reallocating underspends to another service which required funding, as it was felt that this would be a more appropriate use of resources, although it was also felt important that Budget Responsible Officers were not penalised for being prudent.

The Head of Finance said that whilst he would support this in principle, he envisaged that there would be difficulties in implementing this in practice. Whilst the current underspends were evident, it was not always possible to get an indication of whether this underspend would carry through to the end of the financial year. He went on to explain that efforts were made to encourage more precise profiling of budgets, but that this was easier to carry out in some services than others. However he acknowledged that Members would like Budget Responsible Officers to attempt to carry out more accurate profiling, and accepted

that better use could be made of facilities so that real variances were being looked at rather than technical ones.

In response to a query regarding staffing vacancies, and whether it was necessary for all vacant posts to be filled if services were managing to run without them, the Head of Finance said there was evidence that staff were getting the message that Members wanted to bear down on these kinds of costs. There was a reluctance to recruit into some vacancies and attempts were made to make do. However he accepted that there was perhaps a need to consider reductions in the staffing establishment, and it was hoped to have discussions with staff.

In response to a query regarding the lack of uptake of Economic Development grants, the Head of Finance said that whilst he did not have specific information to hand, there was a general indication that it related to a lack of demand from the business sector. He was unsure as to whether that may be an indication of frugality in the current economic climate, or perhaps relate to a lack of identification of business opportunities. He also agreed to provide information to Members relating to the lack of drawings from the Fuel Poverty Grant Scheme budget, as per Appendix 8 of the report.

The Head of Finance also confirmed that it would be possible to remove the reference to the savings of £1.312 million, that had been built into the 2008/09 budgets to reach the approved draw on reserves, in order to avoid confusion. He also agreed to provide further information to Members regarding the breakdown of Executive Service's income following the meeting.

Mr A T J Cooper referred to Council expenditure relating to increased fuel costs, and pointed out that the MSP had taken up the issue of fuel prices locally. He went on to say that Orkney had recognised that there appeared to be a 'cartel' operating between distributors, and some garages had decided to take in their own fuel in order to achieve savings. As the Council would have considerable buying power this could be an option for the Council, and he suggested that the Convener, Chief Executive and MSP should arrange a meeting with local distributors to see if they could get an explanation as to why fuel prices were so high locally.

The Convener agreed, and it was also suggested that this should be carried out in conjunction with HITRANS, as there was already a study taking place on this issue across the Highlands and Islands. It was also requested that the Council's community planning partners were involved, as it was an issue affecting all public services.

In response to a query regarding the claim against the Council by Lerwick Port Authority, the Chief Executive confirmed that any claim would be handled by the Council's insurers.

148/08

Shetland Islands Council Financial Regulations

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

The Head of Finance summarised the main terms of the report, advising that most of the changes related to revising post titles to reflect the current structure.

Concern was expressed regarding the interpretation of the *de minimis* sum in relation to tenders. A Member advised he had received representations from traders advising that they were unable to tender because the policy was actually

being applied, in some instances, so that multiple purchases of goods under the *de minimis* sum were taking place on separate occasions. However, if added together, these purchases would exceed the *de minimis* sum.

The Head of Finance said that he was unaware of this happening, but would do what he could to ensure that this practice was discouraged.

It was suggested that there was a need to look at the inventories of Council assets as some property and equipment had been bought by external groups, and this was particularly relevant in schools. There were also issues relating to the storage and charging for this equipment.

Some Members referred to the issue of credit cards to officers, as referred to in paragraph 21. It was pointed out that Members in other areas of Scotland had corporate credit cards, and that it was common practice in many organisations. It was questioned if Members could be issued with credit cards, given that the Regulations indicated that cards could be issued to officers, as Members were often out of pocket whilst waiting for their expenses to be reimbursed.

The Head of Finance advised that he had not received any applications from Members for corporate credit cards, but this issue would have to be considered further if an application was received. The Chief Executive further confirmed that no officers had been issued with credit cards, and that a corporate credit card was used by Town Hall staff for the purposes of booking travel for Members and officers.

In response to a comment relating to paragraph 7.8 that it would be useful for a timescale to be indicated for reporting to the relevant Committee, the Head of Finance said that it was implicit that this should occur as soon as possible. However he would include a reasonable timescale of reporting within one or two cycles in the Regulations.

A Member pointed out that he had been made aware that there was an unofficial policy operating that invoices for smaller sums of money below a certain level were sometimes not issued by the Council. However this was not referred to in the Regulations.

The Head of Finance said that it had not been included as it was the case that if income was due to the Council, that an invoice should be raised no matter how small the sum of money that was involved.

On the motion of Mr F A Robertson, seconded by Mr W H Manson, the Council approved the recommendation in the report.

It was requested that Members were issued with a final copy of the Financial Regulations for their handbooks.

149/08

Annual ICT Infrastructure Capital Budget

The Council considered a report by the ICT Unit Manager (Appendix 3).

In response to a comment that there was anecdotal evidence that there was a high ratio of computers to pupils in Shetland schools in comparison to Scottish Government guidelines, the ICT Unit Manager confirmed that Shetland did exceed the guideline figures to a large extent. He also confirmed that, as a general rule,

the timescales for updating the Council's computers was every five years. There were no major changes planned with software, other than upgrading everyone to Windows XP in order to keep up with the prevailing software.

A Member commented that he would like to see the Council's website refreshed and the agenda management site looked at as he found it difficult to use. It was also requested that colour printers were provided to Administrative Services in order that Members could receive colour copies of graphs with their agenda papers.

A Member enquired if any economies of scale were being achieved through the Pathfinder project. The ICT Unit Manager said that Pathfinder was a cost-neutral project, but that better connections were being achieved for the same price that the Council had paid in the past. He acknowledged that there had been three failures over the last few days because of weather-related problems, but this was not a widespread problem.

In response to a query, the ICT Unit Manager advised that the disposal of old computers was a difficult area. The issue of corporate licences meant that they could not be given away, and they also had to be disposed off in an environmentally friendly manner. However the Council currently had a contract with a company who dealt with disposal and refurbishment of the Council's old computers in a secure and environmentally friendly manner.

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

150/08

Replacement Planning System Project

The Council noted a report by the ICT Unit Manager (Appendix 4).

In commenting that the Council was an early pioneer in e-planning, but that the system now required updating and development in order to correspond with the Scottish planning process, Mr F A Robertson moved that the Council approve the recommendations in the report and Mr L Angus seconded.

151/08

Nomination for the Charitable Trust Funded Bodies Review Group

The Council considered a report by the Head of Legal and Administration (Appendix 5).

Mr G Robinson declared an interest as an employee of Shetland Recreational Trust, and advised that he would not be seeking nomination.

Mr F A Robertson declared an interest as a member of Shetland Amenity Trust.

Mr W H Manson declared an interest as the Chairperson of Shetland Charitable Trust.

The Head of Legal and Administration advised that it had earlier been proposed that the Council appoint the same number of Members as the Shetland Charitable Trust. However there were concerns that the Council usually only made appointments when terms of reference had been established, so Members were being given the option to appoint the three Committee Chairpersons in the first instance until the terms of reference had been established.

On the motion of Mrs L F Baisley, seconded by Mrs C H J Miller, the Council approved recommendations 7.1.2 and 7.1.3 in the report.

Appointment to COSLA Community Safety Executive Group

The Council considered a report by the Head of Legal and Administration (Appendix 6).

The Assistant Chief Executive advised that in addition to the above appointment referred to in the report, nominations of a Member were also sought for the local Community Safety Partnership.

The Council agreed to the following nominations:

COSLA Community Safety Executive Group:

Mr A T J Cooper

Mr A G L Duncan (substitute)

Community Safety Partnership:

Mr A T J Cooper

Mrs I J Hawkins, in her role as Chairperson of the Road Safety Advisory Panel

Mr A T J Cooper pointed out that a report presented last cycle had indicated that the Chief Constable and Chairperson of the Northern Joint Police Board would be coming to Shetland to discuss budgets and various other issues. He went on to say that the Council did not have the same opportunity to have similar discussions with the Highlands and Islands Fire Board on their budgetary process or capital programme, and he felt that it was appropriate that they were invited to give a presentation to the Council on their expenditure and capital programme.

Members agreed, and it was suggested that a special meeting be held to hear the presentation.

Schedule of Meetings 2009

The Council considered a report by the Head of Legal and Administration (Appendix 7).

Members noted that the appendices had been incorrectly numbered, and that Option 2 reflected the current cycle of meetings, with Option 1 spreading the meetings out over the cycle.

Some discussion took place as to the advantages and disadvantages of each option. Some Members were of the opinion that Option 2 enabled business to be carried out over a shorter period of time, and was therefore easier for Members in terms of freeing up time to allow for constituency business. However others felt that Option 1 would allow more time for consideration of business and preparation for meetings.

Mr A T J Cooper moved that the Council adopt Option 1 as the schedule of meetings for 2009, and Mrs E L Fullerton seconded.

Mr A S Wishart moved, as an amendment, that the Council adopt Option 2 as the schedule of meetings for 2009, and Mr W H Manson seconded.

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

It was noted that the meeting dates for the first cycle were slightly different in order to accommodate public holidays, but that there was scope to reschedule meetings should this cause a problem.

It was requested that JCC meetings were moved to Mondays in order to leave Tuesdays clear to carry out site visits before Planning Board meetings.

154/08 **Scottish Government Consultation on the Reform of the Children's Hearings System – SIC Response**

The Council considered a report by the Head of Legal and Administration (Appendix 8).

After hearing the Head of Legal and Administration summarise the main terms of the report, the Council approved the recommendations contained therein on the motion of Mrs F B Grains, seconded by Mr C L Smith.

155/08 **Draft Health, Safety and Welfare Policy (Revised Version)**

The Council considered a report by the Safety Manager (Appendix 9).

The Head of Legal and Administration summarised the main terms of the report, and emphasised the importance of having a comprehensive Policy, particularly in light of the recent corporate manslaughter legislation. The work undertaken by the Central Safety Committee and safety forums under their respective roles and remits helped ensure that the Council had a robust structure in place. Whilst the previous Policy identified objectives and aspirations, it did not identify responsibilities, so the revised Policy clarified this to a significant extent. The draft policy had been circulated widely for consultation, and had been endorsed by the Central Safety Committee, the Staff Consultative Committee and the Executive Management Team.

It was requested that reference should be made in paragraph 2.3(f) of the Policy that special regard should be paid to disabled staff and staff on long-term sickness leave, as it had been suggested that management sometimes did not fully engage with these members of staff to discuss their options.

In response to a query regarding the responsibility of Members individually or jointly if a tragedy occurred, the Head of Legal and Administration said that there was a very limited capacity for individual responsibilities for Members but there was a collective need for the Council to ensure it had a comprehensive policy in place, and that health and safety formed part of the management culture. Members were effectively delegating this to the Chief Executive, and the purpose of the revised Policy was to ensure that all levels of management understood their responsibilities and took the necessary action to ensure that incidents did not occur or their likelihood was reduced to a minimum level. The new Policy also identified who had responsibility to take action on Members' behalf and therefore would discharge the Members' collective responsibility.

A Member referred to paragraph 1.1 of the Policy regarding the reference to Shetland Islands Council taking "all *reasonably practicable* steps to protect and promote the health, safety and welfare at work of all its employees", as he felt it was important for the Council to take *all* practical steps, and that the minimisation of costs were not prioritised at the expense of safety.

The Head of Legal and Administration advised Members that the term “reasonably practicable” was a legal term and was based on what statute required and common law use. It provided a safety net and would enable the Council to argue against those who could say that the Council had not taken “all practical” steps. Therefore it was important that it remained in the document.

It was questioned if officers were satisfied that the Council was protected in risk management terms, as well as safety, and if there was an auditable trail regarding the discharge of responsibilities.

The Head of Legal and Administration confirmed that there was a high degree of interrelationship between the Central Safety Committee (CSC) and Executive Management Team (EMT). The CSC reported to EMT and CSC minutes were also reported to the Risk Management Board. He went on to say that Members could not bear individual or financial liability for corporate decisions, and the Council in name would be prosecuted in the event of breach of the legislation. With regard to safety matters, Members would also be governed by the Council’s approved policy.

It was noted that there was no reference to air services in the table on the final page of the Policy, and that this should be included as the Council employed staff at Tingwall Airport. It was also requested that the website addresses of the four organisations referred to on the last page of Appendix B be included, and officers were asked to check that the Agricultural Training Board was still in existence.

On the motion of Mr G Robinson, seconded by Mrs F B Grains, the Council otherwise approved the recommendation in the report.

It was requested that a final copy of the Policy was issued to Members for their handbook.

156/08

Draft Policy on Fire Safety Management

The Council considered a report by the Safety Manager (Appendix 10).

In response to a query relating to how training would be carried out, as referred to on page 21 of the Policy, the Head of Legal and Administration said that there had to be a policy in place to deliver health and safety training. However, in this particular instance, legislation had changed and it was now the responsibility of building managers to ensure compliance with the procedures in the Policy within their areas of responsibility. A consultant had been brought in two years ago to carry out mandatory training, and this had resulted in the Policy being changed. Fire safety training continued to be updated and formed part of the health and safety training through Train Shetland. After the initial training had been conducted, a comprehensive audit had been carried out on fire safety in Council-managed premises, and the actions required were the responsibility of Building Managers and ultimately Service Heads.

In response to a query regarding paragraph 4.1 of the Policy, the Chief Executive confirmed that this would require to be updated, as the post of General Manager Ports & Harbours would no longer be in existence in the future.

A Member commented on paragraphs 7.1 and 7.2 of the Policy, and said that it was important that it was very clear who was responsible for each particular area.

The Head of Legal and Administration said that he would check the Policy again to ensure that there were no ambiguities. However it was the case that the Fire Safety Advisors gave general advice and Building Services advised what was needed practically to meet the specific requirements within that general advice.

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

157/08 **Revised Adverse Weather Policy**

The Council considered a report by the Human Resources Manager (Appendix 11) and approved the recommendations contained therein on the motion of Mr L Angus, seconded by Mrs I J Hawkins.

The Convener pointed out that last year there had been a campaign to encourage all vehicles to use dipped headlights and he suggested that this should be carried out again.

The Chief Executive said that whilst there were some concerns relating to this campaign, it had been supported last year and the Council could issue guidelines to its staff again. He went on to say that there was some evidence that the EU would be moving towards introducing proposals relating to the use of dipped headlights at all times, so it may become mandatory in the future.

158/08 **Revised Substance Misuse Policy**

The Council considered a report by the Head of Organisational Development (Appendix 12).

After hearing the Head of Organisational Development summarise the main terms of the report and explain that discussions were ongoing regarding the introduction of random testing, the Council approved the recommendation in the report on the motion of Mr J G Simpson, seconded by Mr A T J 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.

159/08 **Employees Joint Consultative Committee – 23 September 2008**

The Council noted the minutes of the above.

12/08 – Creation of Post of Adult Protection Co-ordinator

It was pointed out that this post was a two-year fixed appointment, although this had not been made clear when it had been considered at the Services Committee.

160/08 **Future Management of the Pension Fund Mandate Currently Managed by Capital International**

The Council considered a report by the Head of Finance.

The Head of Finance summarised the main terms of the report, advising that the recommendations had been approved by the Pension Fund Management Consultative Committee.

After some further discussion, the Council agreed to approve the recommendation in the report, on the motion of Mr G Robinson, seconded by Mrs I J Hawkins.

161/08 **Staffing Matter**

The Council considered a report by the Chief Executive and on the motion of Mr A J Cluness, seconded by Mr A S Wishart, approved the recommendation in the report.

The meeting concluded at 12.20pm.

A J Cluness
Convener