



Shetland Islands Council

MINUTE

A

Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 18 February 2009 at 10am

Present:

A J Cluness	L Angus
L F Baisley	A G L Duncan
A T Doull	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:

J Budge	A T J Cooper
B Fullerton	

In attendance (Officers):

M Goodlad, Chief Executive
W Shannon, Assistant Chief Executive
G Greenhill, Executive Director – Infrastructure Services
H Sutherland, Executive Director – Education, Housing and Social Care
H Budge, Head of Schools
N Grant, Head of Economic Development
G Johnston, Head of Finance
I McDiarmid, Head of Planning
C Medley, Head of Housing
J Riise, Head of Legal and Administration
J Smith, Head of Organisational Development
D Bell, Human Resources Manager
M Finnie, Capital Programme Service Manager
B Hill, Acting Divisional Manager Legal Services
J Holden, Development Management Manager
A Rolfe, Acting Asset and Properties Manager
S Moncrieff, ICT Unit Manager
H Tait, Management Accountancy Service Manager
K Foster, Accountancy Officer
A Inkster, Port Engineer
R MacNeill, Planning Officer
L Gair, Committee Officer
R Macleod, Committee Assistant
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.

Declarations of Interest

J Wills – Item 10, [Local approach to Marketing] as a member of Shetland Tourism Association

W H Manson - Item 1 [Statutory Report – Annual Audit] as Chairperson of Shetland Charitable Trust

Item 12 [Appointments to Shetland Wind Farm Environmental Advisory Group] as a Director of Viking Energy Ltd

A Duncan - Item 14 – [Shetland Livestock Marketing Group] as a crofter

A Wishart - Item 12 [Appointments to Shetland Wind Farm Environmental Advisory Group] as a Director of Viking Energy Ltd

A Doull - Item 14 – [Shetland Livestock Marketing Group] as a member of the Group

2/09 Shetland Islands Council – 3 December 2008 and 16 December 2008

Except as undernoted, the Council approved the minute of the aforementioned meetings, on the motion of Mr A J Cluness:

186/08 - Highlands and Islands Fire and Rescue Service - Capital Programme for Shetland

- Page 4, fourth bullet point, “difficult to appoint fire fighters because of the lack of lack in the community” should read “difficult to appoint fire fighters to because of the lack of personnel in the community.”
- Page 3, Mr R Nickerson “attended the meeting” instead of “returned to the Chamber.”

3/09 Members Attendance at External Meetings

A J Cluness – meeting with Total regarding investment at Sullom Voe Terminal.

C Smith – Scotland Excel Joint Committee. The Council agreed that arrangements be made for a representative from Scotland Excel to give a presentation to the Council on the project and the potential benefits to the Council.

R Nickerson – Asked that the Council record its congratulations to Sandwick Junior High School pupils for their success in HIE's Big Green Challenge debate and it was agreed that the Convener would send letter of congratulations to the School.

R Nickerson – Asked that the Council record the passing of Councillor Bill Risby, Manchester City Council, who was a pioneer for the establishment of Nuclear Free Local Authorities and Mayors for Peace. It was agreed that the Convener would send a letter to the Mayor of Manchester City Council offering the Council's condolences.

G Robinson – COSLA Strategic Human Resources Management Executive Group

5/09

Development Committee – 22 January 2009

Except as undernoted, the minute of the aforementioned meeting was confirmed on the motion of Mr J G Simpson.

09/09 Shetland Abattoir Co-operative Ltd., and Shetland Livestock Marketing Group Ltd. – Abattoir and Meat Processing Facility, Scalloway

Mr A J Cluness moved that the Council suspend Administrative Regulations in order that this item could be reconsidered by the Council. Mr A Wishart seconded, and the motion received the unanimous support of the Council.

Mr A J Cluness moved that the Council grant the full £25k sought. Mr F A Robertson seconded.

Mrs C Miller said she had not been at the Development Committee meeting, and asked why the production of a business plan could not be done in house by the Economic Development Unit. The Head of Economic Development advised that whilst staff from his Unit could assist applicants in drawing up their business plans, they could not write it for them, and SLMG would have to do their own.

Mr A Wishart said that fishing and crofting were the two original industries in Shetland, and this application should be supported on that basis and he would support the additional funding.

Mr G Robinson said that his concern was about the precedent that funding this additional amount could set. He said there was a degree of 'sabre rattling' by one or two individuals, but he believed that £12.5k was a generous offer, along with the help and support of the Economic

Development Unit. Mr G Robinson gave notice of a further amendment.

Mr A Duncan said he was totally opposed to giving SLMG any money at all. He said SLMG was a 'Mickey Mouse outfit', and said the group was only there to look after the 'chosen few'. Mr Duncan said that the Group had only 235 members, which was less than a third of the agriculturists in Shetland. He went on to say that there was not enough financial and background information available to Members for a decision to be made. He said that all applicants for funding had to provide a business plan and financial accounts which were not available to Members, and questioned if there was a hidden agenda.

Mrs C Miller said that she found Mr Duncan's comments offensive.

Mr Cluness said the purpose of the funding was to allow SLMG to prepare a business plan.

Mr A Doull said that members of SLMG paid an annual membership of £120, but more than double the membership use the facilities.

Mrs L Baisley said that she supported SLMG and the amendment by Mr Cluness. She said she was not a member of SLMG, but a lot of small crofters were being complacent about the industry. She said more competition between producers was needed, and if SLMG were to fail, it would be too late for the industry to pick up the pieces. Mrs Baisley said the group deserved a chance to get their act together, and perhaps a few more members would join it and make it a more fluid organisation.

Dr J Wills asked if there was a budget allocated already for this, and if there was any problem with State Aid regulations. The Head of Economic Development confirmed there was budget available. He went on to say that when he wrote the report there was a robust mechanism from a State Aids perspective. He said, however, there was now a question over whether SLMG was a business in difficulty, and that discussion was still ongoing.

Mr A J Cluness said it was ironic that the Government was able to bail out the Royal Bank of Scotland with millions of pounds, but £12.5k to the SLMG would contravene State Aids.

Mr R Nickerson said he would perhaps modify his comments from that of Mr Duncan. However, he said he had concerns about the state of the company, and his concern was also to do with the lack of financial information in terms of equality for applications for such funding from the Council. In this regard, Mr Nickerson said he would support the decision of the Development Committee.

Mr F A Robertson said the SLMG was set up as marketing group, and its main effort was in marketing, including the organisation of sales in conjunction with Northern Marts. He went on to say that the group was looking for a sum of money to produce a new business plan and that this should be supported as it would in due course come back before the Council.

Mrs F B Grains said she was not declaring an interest, and said she felt that Members were in danger of mixing up this application with the later agenda item. She said it had to be remembered that this report was to do with a review of the organisation.

Mr A Hughson said he was concerned that the Convener was advocating a willingness to offer assistance which appeared to be in direct contravention of the State Aid rules, and failed to see how this would differ from the current problems with assistance given to fishermen.

Mr A J Cluness said he did not believe that the assistance was in contravention of the rules, and was prepared to argue the matter at Court.

Mr A Hughson said that even at 50% funding would be outwith the State Aid rules, and said he was not prepared to contravene those rules.

Mrs I J Hawkins asked if this was a company that was in extreme financial difficulties whether the Council was being prudent in putting money towards it, whether 50% or 100%. The Head of Legal and Administration advised that the matter of State Aid contravention was still unresolved because no definitive answer had yet been given, but prudence was not a question of legality, and it was a matter for Members to decide.

Mr L Angus said that, unfortunately, the latest outcome of discussion on relaxation of the State Aid rules had crossed with this report. He said that whilst he had no comment to make on the SLMG proposal, like Mr Wishart, he firmly believed that this would be in support of an indigenous industry.

Mr W H Manson said it was infinitely easier to keep something going, rather than put something new in place, and said that in this regard it would be better to investigate the possibility rather than winding up the company.

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

Amendment (A J Cluness)	9
Motion (J G Simpson)	10

Mr G Robinson withdrew his notice of a further amendment, and the motion by Mr J G Simpson, to approve the recommendation of the Development Committee, was declared the finding of the meeting.

6/09

Infrastructure Committee – 21 January and 3 February 2009

Except as undernoted, the Council approved the minutes of the aforementioned meetings, on the motion of Mr A Wishart.

Attendance at External Meetings

Mr R Nickerson pointed out that attendance by himself and Mr Robinson at the Scottish and Southern Energy meeting, had been as representatives of SHEAP Ltd, and not the Council.

03/09 - 20mph Speed Limits at Schools - Proposed Acceleration of Programme

Mrs I Hawkins referred to the statement that “Scalloway had been added to the current financial year, pending public consultation.” Mrs Hawkins asked that the Members for the area be provided with reassurance that this would be completed within the current financial year. The Executive Director Infrastructure confirmed that he would provide this information to the Members after the meeting.

7/09

Audit and Scrutiny Committee – 4 February 2009

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

42/08 – Items for Future Discussion

Dr J Wills proposed that the Council ask the Audit and Scrutiny Committee to keep under review the governance of the Council and make recommendations from time to time as it sees fit. The Convener said that he saw no difficulty with this proposal.

01/09 – Capital Project Management Best Practice – First Progress Report

Mrs C Miller advised that the minute should be amended to state that she had referred to the Committee discussing “draft” proposals in the report, prior to it being presented to Council. Members agreed.

8/09

Services Committee – 5 February 2009 and 12 February 2009

Except as undernoted, the Council approved the minutes of the aforementioned meetings, on the motion of Mr L Angus.

06/09 - Strategic Housing Investment Plan (SHIP)

07/09 - Provision of Affordable Housing – Discussion Report

Mr L Angus suggested that the remit of the Allocation Monitoring Group be re-determined to include these strategic issues, and that the Executive Director be asked to bring a report on the revised remit to the next cycle. The Council agreed.

13/09 - New Anderson High School Capital Project: Approval to Proceed with Submission of Planning Application

Dr J W G Wills said that the recommendation from the Services Committee to the Council was to proceed with the submission of a planning application. However, Dr Wills said that it might be useful to revisit this matter briefly, as he believed that if the full facts had been debated the Committee may not have voted the way it did. He said that there was still no funding package in place for the new School which was a fundamental problem for the Council. He said that whilst some figures and costings had been provided, there was no detailed, rigorous and independent assessment of the options. Dr Wills went on to say that the layout and design of the new School did not have enough space according to professionals. In addition, he said there was no action plan agreed yet for secondary education in Shetland and the current application would close off any further options.

Accordingly, Dr Wills moved as an amendment that the Council, recognising that the brief for the new Anderson High School (AHS) cannot be realistically finalised until the Blueprint Action Plan for Secondary Education is approved, and bearing in mind the remaining educational, technical and financial difficulties that have arisen with the Knab Road site, does not apply for planning permission at this stage, and instructs the Project Team as follows:

- (1) to review in detail the costs and feasibility of alternative sites at Lower Staney Hill and Seafield;
- (2) to demonstrate with clear evidence which option represents Best Value in terms of the Single Outcome Agreement and the Concordat with the Scottish Government; and
- (3) report back to the Services Committee as soon as this essential work is complete.

Mr A G L Duncan seconded.

Mr L Angus said that whilst he may agree with much of what Dr Wills said, many of those points had already been addressed in this Council, including the site option appraisals. Regarding the funding package, Mr Angus said that it was correct that still had to be finalised, but that should not stop the submission of a planning application. He said it was now time to go with the majority and get on with this project without further delay.

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

Amendment (J W G Wills)	2
Motion (L Angus)	16

Mr G Robinson asked that his abstention from the voting be recorded.

9/09

Planning Board – 17 December 2008 and 14 January 2009

Except as undernoted, the Council approved the minutes of the aforementioned meetings, on the motion of Mr F A Robertson, seconded by Mr G Robinson.

73/08 - 2008/245/PCD and 2008/246/PCD – To extend retail store, form car park, covered trolley bays, recycling area and re-align footpath, Tesco Stores Ltd, South Road, Lerwick (Two applications) by Tesco Stores Ltd.

Mr A J Cluness declared an interest in this matter, as a proprietor of a business on Commercial Street, and vacated the Chair, and took no part in the discussion or voting.

Mr J G Simpson, Vice-Convener, assumed the Chair.

Mrs C Miller also declared an interest in this item as a retailer and proprietor of properties on Commercial Street and took no part in the discussion or voting.

In response to a number of queries from Members, the Head of Planning advised that the Planning Service had received a number of representations and statements as well as the Retail Impact Assessments and the health check report commissioned by the Planning Service, and the conclusion was that the development would not have an impact to an unacceptable level. He went on to say that the application had resulted in a very complex debate, but the application had been assessed against the policies that seek to protect the town centre and, based on that information, it was concluded that the town centre would not be impacted upon. The Head of Planning added that the Planning authority could not consider directly the impact of competition on profitability and impact on individual shops, but could seek to control the overall impact on the whole sector at a strategic level.

Dr J W G Wills moved as an amendment, that the Council reject the application on the grounds that the application is contrary to Structure Plan Policies SPCOM1 and SPCOM11, and contrary to planning policies LPCOM9, LPCOM10 and LPCOM11, and that the applicant be asked to come back with an application for a smaller extension. Mrs F B Grains seconded, adding that it was not the town centre that concerned her, but the impact on rural shops and, consequently, rural post offices.

During the discussion which followed, some Members said that the Council should not be using Planning legislation to restrict trade and whilst there was some sympathy with rural shops, trying to restrict trade seemed bizarre. It was also stated that the ability to travel more readily was having an impact on trade in the rural areas, and the Council itself had set up a bus shopper service to take rural residents into Lerwick.

It was noted, however, that the smaller shops were not objecting to the presence of the supermarket, but wanted to see the status quo as it was felt that the overall customer market was unlikely to increase much further.

In response to a query, the Head of Legal and Administration confirmed that there was no right of appeal by the objectors, and if the decision was to reject the application, the minute would have to clearly state the reasons.

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

Amendment (J W G Wills)	3
Motion (F A Robertson)	14

Mr A J Cluness resumed the Chair.

10/09 **Harbour Board – 2 February 2009**

Except as undernoted the Council confirmed the minute of the aforementioned meeting, on the motion of Mrs I J Hawkins

Emergency Planning at Gulberwick

Mr R Nickerson asked that a report be presented to the Council concerning the full emergency planning issues, were an accident to occur concerning the tankers anchored outwith the Lerwick Port Authority area. He was concerned that, in a south easterly gale they would not have time to start their engines and leave, and asked that report address the issue as to who would be responsible for any clean up operation.

03/09 – Table of Dues

Referring to page 2, Ship-to-ship Transfers, Mr R Nickerson said his comments had not been reflected in the minute and asked that future development of ports and harbours be included as a standard item on future Harbour Board agendas. Also on paragraph 8 on Page 4 he asked that the second sentence be amended to read “He hoped minds would be focussed and bring people to the table for discussion.

11/09 **Licensing Sub-Committee – 11 December and 17 December 2008**

Except as undernoted the Council confirmed the minutes of the aforementioned meetings, on the motion of Mr C Smith.

11/08 - The Civic Government (Scotland) Act 1982 Application for Grant/Renewal of Taxi Drivers Licences

Amendment to exempt minute to state that the applicant had hoped to start working for “Mr Robinson of Robinson Transport.”

[Mr W H Manson left the meeting.]

12/09 **Statutory Report – Annual Audit**

The Council considered a report by the Chief Executive (Appendix 1).

In response to queries from Members, the Chief Executive confirmed that it was a requirement of the Council to comply with the requirements of the Accounts Commission, and that this would be communicated to the Shetland Charitable Trust. The Council approved the recommendations contained in the report on the motion of Mr A Wishart, seconded by Mr C Smith.

[Mr W H Manson returned to the meeting.]

13/09 **General Fund Revenue Estimates and Council Tax Setting – 2009/10**

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

The Head of Finance summarised the terms of the report, stating that the budget being proposed complied with the policy framework put in place by the Council, and that the recommendation was to freeze the Council Tax, in line with the concordat with the Scottish Government. He went on to say that challenges facing the Council during the next year included the implementation of Single Status, and the integration of the Shetland Development Trust activities back into the Council.

Mr L Angus moved that the Council approve the recommendations in the report, including the proposal in paragraph 4.2.6 that for the pattern of underspending to continue, Executive Management Team and Budget Responsible Officers will work together to ensure that this outcome is achieved, and that this will be reported to the Council throughout the year. In this regard, Mr Angus also moved that, in addition to these recommendations that the Council approve consolidation of revenue budgets at the end of the calendar year, in order that further decisions can be made based on the requirements of the remaining three months of the financial year. Mr Angus said that this was often the time when a number of small capital projects could be funded, and other policy shifts during the year that cannot be implemented because of lack of budgeted funds. Mr C Smith seconded.

The Head of Finance agreed that this was a perfectly reasonable addition to the monitoring programme for the coming year.

Mr A Wishart praised the layout and format of the report, adding that it was also very clear in its terms. He went on to refer to section 4.2.5 and said that Members should also note the pressures that were to fall on the Planning Service, including the new Anderson High School, Total development at Sullom Voe and the Viking Windfarm. Mr Wishart also referred to sections 4.2.9 and 4.2.10 and to the impact of

Single Status, and said that this illustrated the need for a very conscious move towards job redesign.

Mrs C Miller asked if Mr Angus would include within his motion that the fares in Bressay be frozen at today's rate until the ferry fare review comes forward. However, Mr Angus declined to accept that as part of his motion.

Dr J Wills said that the terms of 4.2.7 and 4.2.10 suggested that the Council would be dipping into its reserves. The Head of Finance confirmed that the report was flagging up the likelihood that the Council would have to temporarily dip into its reserves. Dr Wills said that he would have to move against the reserves being used for Single Status. Mr A J Cluness advised that the Council was signed up to implement Single Status, although the Government was being asked how Councils were expected to fund this without central Government funding.

The Chief Executive advised that the Council had been advised that it would always be difficult to fund Single Status. However, he said at this stage it may be possible to fund from underspends, bearing in mind that the costs would be year on year, and would also initially include an element of back pay, but in any event the matter would come before the Council for a decision on funding. Dr Wills said he would not pursue his motion at this time.

The Head of Finance said that this Summer there would be a lot to look at in terms of the outturn figures for this financial year, Single Status, and a range of other issues. He accepted that a review of financial policy later this year will be required to address any concerns that Members may have.

There was no amendment, and the motion by Mr Angus was declared the finding of the meeting.

14/09 **Housing Revenue Account Estimates (HRA) and Charge Setting 2009/10**

The Council considered a report by the Head of Finance (Appendix 3) and approved the recommendations contained therein, on the motion of Mr L Angus, seconded by Mrs C Miller.

15/09 **Table of Dues 2009/10**

The Council considered a report by the Service Manager Management Accountancy (Appendix 4).

Dr J Wills said that the Council should increase the dues at Sullom Voe by a percentage that would reduce the original target profit from the accounts. He said that the Council should not be giving BP a subsidy.

The Chief Executive confirmed that to give effect to this suggestion would require an increase of 39%.

Mr A Wishart said that he understood the point being made, but in order to attract new business he questioned the kind of message such an increase would give out to the industry. He went on to say that the Council may have to look at benchmarking with other ports in order to support the current level of 85 staff at 200 vessels per year, or look at ways of reducing overheads and costs. Mr Wishart said he would support the recommended increase of 17%.

Mr G Robinson said that since there was now a better dialogue with the Terminal management, he moved that the Council approve the recommendations in the report. Mrs I J Hawkins seconded.

Dr J W G Wills moved as an amendment that the Council increase the charges by 39%. This, however, received no seconder, and the motion by Mr Robinson was the finding of the meeting

16/09 **Ports and Harbour Estimates 2009/10**

The Council considered a report by the Service Manager Management Accountancy (Appendix 5) and approved the recommendation contained therein, on the motion of Mrs I J Hawkins, seconded by Mr A J Cluness.

[Mr J G Simpson left the meeting.]

17/09 **Progress Report – Capital Programme 2008/09**

The Council considered a report by the Capital Programme Service Manager (Appendix 6) and approved the recommendation contained therein, on the motion of Mrs I J Hawkins, seconded by Mrs L Baisley.

18/09 **Treasury Management Strategy Statement 2009/10**

The Council considered a report by the Head of Finance (Appendix 7) and approved the recommendation contained therein, on the motion of Mr A J Cluness, seconded by Mr W H Manson.

In response to a query from Mrs Miller, the Head of Finance confirmed that investment shares did go beyond UK banks as part of the strategy for splitting risk. However, he confirmed that there were no cash reserves in foreign banks, and investments were only made in highly rated institutions.

[Mr J G Simpson returned to the meeting.]

19/09 **Financial Monitoring**

The Council considered a report by the Assistant Chief Executive (Appendix 8).

Mr W H Manson said that there was a clear need for a review of financial policy, and was of the view that this should be a formalised body. He said there was already a plethora of informal groups in the Council, and therefore moved that the Council approve recommendation 7.1(c) but that the remit be restricted to finance and financial policy. Dr J Wills seconded.

Mr A Wishart moved as an amendment that the Council approve recommendation 7.1(a) of the report, but that the informal group be the same Member/Officer Working Group appointed by the Council at its meeting yesterday (17 February 2009 – Min. Ref. 01/09) but that the Group establish its remit, or brief, to address: (1) the capital programme; and (2) financial monitoring. Mr A Hughson seconded.

Mr R Nickerson said he supported the proposals for an informal group, and gave notice of a further amendment. He went on to say that he believed informal discussions had to be held in private, and that a more formal group would have to meet in public which could lead to restrained debate and ‘blue sky thinking’.

Mr L Angus said he was not clear on what the additional benefit would be in establishing a formal group, as any remit for decision making would have to be taken from existing Committees, although there had not been any indication as to what the Committees were doing wrong.

Mr G Robinson said that the Planning Chairperson role was intended to include the Spokesperson role. In this regard, he suggested that Mr F A Robertson also be included in the Member/Officer Working Group as Planning Spokesperson, but that this would also ensure a geographical spread representing all Wards.

Mrs C Miller referred to appendix 2 of the report and to the remit for the former Policy and Resources Committee. She said it was important for the Council to make its corporate plan fit with the budgets, and to do so properly required a formal structure. However, she said it was also important for Members, and officers, to be able to speak freely and this had to be developed into a working partnership. Mrs Miller said that developing corporate communication was also an important issue, and indicated that she would be supporting the establishment of a formal Committee that could feed from established working groups.

The Assistant Chief Executive said that the impetus for the report had arisen through the Council’s consideration of the Abstract of Accounts, during which reference had been made to the Finance Review Advisory Panel, an informal panel looking at the finance. He went on to say that establishing a formal group would have to comply with access to information legislation in terms of its meetings, unlike an informal group.

He added, however, that officers would not be allowed to become members of a formal Committee. The Assistant Chief Executive said it was a decision for Members, although it had already been agreed that the capital programme would be serviced by a Member/Officer Working Group.

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

Amendment (A Wishart)	12
Motion (W H Manson)	7

Mr R Nickerson withdrew his notice of a further amendment, but added that he wished to record his attempt to save around £1000 per annum in terms of the postage for papers being sent to him for meetings, and instructed Legal and Administration to deliver such mail to the Town Hall, where he would collect.

20/09 **Housing Management System**

The Council considered a report by the ICT Unit Manager (Appendix 9) and approved the recommendations contained therein, on the motion of Mr A Duncan, seconded by Mr L Angus.

21/09 **A Local Approach to Marketing**

The Council considered a report by the Head of Economic Development (Appendix 10).

Mr A J Cluness said that VisitScotland never realised that in a way Shetland was competing with other areas in Scotland, for the same market.

Mr W H Manson said he intended to support this new organisation, but would draw Members' attention to section 4.2.3 of the report and note that the situation regarding State Aids was unclear and some Members may be inclined not to approve it for that reason.

Mr R Nickerson moved that the Council approve the recommendations in the report. Mr Nickerson referred to the recommendation 8.1(a), and asked for some reassurance that every effort would be made to ensure that this operation would be done by a third part contract, rather than directly employed staff.

The Head of Economic Development said that the preference would be to engage in a third party contract, and only if that was difficult to achieve would there be a fixed term contract of employment established to deliver the same role.

Mrs C Miller seconded the motion by Mr Nickerson.

In response to questions, the Head of Economic Development confirmed that progress reports would be presented to the Development Committee on a quarterly basis.

22/09 **Appointments to Shetland Ocean Alliance (SHOAL)**

The Council considered a report by the Head of Legal and Administration (Appendix 11) and on the motion of Mrs I J Hawkins, seconded by Mr A Wishart, Mrs B Fullerton was appointed to represent the Council on SHOAL. Mr J G Simpson confirmed that Mrs Fullerton had confirmed she would accept the appointment.

23/09 **Appointments to Shetland Wind Farm Environmental Advisory Group (SWEAG)**

The Council considered a report by the Head of Legal and Administration (Appendix 12).

The following Members were duly appointed to represent the Council on the SWEAG:

G Robinson
R Nickerson
J Henry

Dr J Wills was nominated, but declined appointment.

Whilst it was noted that Viking Energy Partnership had only sought 2 Members, it was agreed that the Council would request that the membership be amended to accept all three appointments. It was also suggested that the Partnership should be asked to consider the appointment of a representative from the Shetland Amenity Trust.

Regarding any potential conflict of interest, Mr G Robinson said that the SWEAG did not have an association with the developer, and if set up in a similar fashion to that operated by SOTEAG, which he was also a member of, it would not give rise to a conflict and would be a worthwhile appointment. The Head of Legal and Administration stated the advice was not that any appointment would be a conflict, only that the appointment should be registered, and whenever there is a registered interest, it should be declared at a meeting and, to ensure transparency, a decision should be taken at that point as to whether any interest prevented participation in debate or voting.

24/09 **Chief Executive – Recruitment Procedures**

The Council considered a report by the Human Resources Manager (Appendix 13).

On the motion of Mr A Wishart, seconded by Mr L Angus, the Council approved the recommendations in the report, subject to Human Resources Manager having delegated authority to agree, in consultation with the selection panel, the use of an external agency, to arrange any training required, and to allocate the resources as appropriate.

It was later noted that the report had omitted to include the Vice-Chairperson of the Development Committee as a member of the selection panel, thereby ensuring that the panel represented all main service committees of the Council.

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

Mr A Hughson moved as amendment that the Council agree to the following item (Shetland Livestock Marketing Group) being held in public. Mr G Robinson seconded.

In response to a question from Mr A Wishart, the Head of Economic Development confirmed that the report contained financial information relating to the organisation, which it had asked to be kept private.

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

Amendment (A Hughson)	8
Motion (A J Cluness)	11

(Representatives of the public and media left the meeting.)

25/09

Shetland Livestock Marketing Group

The Council considered a report by the Head of Economic Development.

[The Convener noted a declaration of interest made by the Chief Executive regarding this item.]

Mr A J Cluness moved that the Council approve the aid requested of up to £100,000 and that the Council face any questions relating to State Aid questions at a later date. Mrs L Baisley seconded.

In response to a query from Mr A Doull, the Head of Economic Development confirmed that whilst the UK government had been assisting businesses out of the current economic crisis, the advice being given by the State Aid Unit was that the SLMG did not fit the current criteria for assistance.

Mr A Doull said that there was merit in keeping this business going, particularly given the new management had only been in place for a year, and they should be given the chance to make things work, having identified where there were improvements to be made, and the pending business plan.

In response to a query from Mrs C Miller, the Head of Economic Development confirmed that any grant would come from Council funds, and not the Shetland Development Trust.

During the discussion which followed, the Head of Economic Development provided clarification on a number of issues contained in the report.

Whilst some Members were in support of the organisation, concerns were raised regarding the provision of financial assistance which was in contravention of current advice regarding State Aid regulations. The continued operation of the Marts and associated services being provided by the SLMG were cited by some Members as being of benefit to the agricultural community, beyond the membership of the organisation, and that the current management should be given the opportunity to develop the organisation further, with the alternative option of liquidation having even wider consequences. However, other Members stated that the organisation was only seen to be of benefit to its limited membership, which accounted for less than a third of the agricultural community, and that the Council should not be providing assistance which was in contravention of the law. Reference was made to the financial difficulties which the organisation, noted as being a limited company, had been facing, and the efforts being made to overcome these difficulties by covering those bad debts and recapitalising the business, hence the request for assistance. However, concerns were raised regarding the lack of financial input from the SLMG members, and the ultimatum which was being given if no assistance was given by the Council. It was also suggested that consideration could be given to distributing funds directly to crofters and farmers, rather than going through the SLMG and them having to pay back if the assistant flouted the State Aid rules.

Dr Wills suggested that the motion by Mr Cluness could include a statement that the Council supports in principle the recapitalisation proposal up to £100,000 through grant or loan, and that an acceptable business plan be produced and delegated authority be given to the Head of Economic Development to approve the funding package if the appropriate conditions can be met. Mr A J Cluness agreed, with the consent of his seconder, to include this in his motion.

Mr C Smith moved as an amendment that the Council approve recommendation 8.1, not to provide the aid requested. Mr G Robinson seconded.

Mrs F B Grains gave notice of a further amendment.

Mr A Wishart gave notice of a further amendment.

Mr G Robinson gave notice of a further amendment.

Mr R Nickerson moved that voting take place by roll call vote. Mrs I J Hawkins seconded and received the support of all Members present.

After summing up, voting therefore took place by roll call, and the result was as follows:

A J Cluness	Motion
A Doull	Motion
A Duncan	Amendment
F B Grains	Amendment
I J Hawkins	Amendment
R Henderson	Amendment
J Henry	Amendment
A Hughson	Amendment
W H Manson	Motion
C Miller	Motion
R Nickerson	Amendment
F Robertson	Motion
G Robinson	Amendment
J G Simpson	Amendment
C Smith	Amendment
J W G Wills	Motion
A Wishart	Motion
L Angus	Amendment
L Baisley	Motion

Amendment (C Smith) 11
Motion (A J Cluness) 8

Mrs F B Grains moved as a further amendment that the report be deferred until such time as the business plan is presented to the Development Committee. Mrs L Baisley seconded.

Voting again took place by roll call, and the result was as follows:

C Smith	Motion
J W G Wills	Amendment
A Wishart	Amendment
L Angus	Motion
L Baisley	Amendment
A J Cluness	Amendment
A Doull	Amendment
A Duncan	Motion

F B Grains	Amendment
I J Hawkins	Motion
R Henderson	Motion
J Henry	Amendment
A Hughson	Motion
W H Manson	Amendment
C Miller	Amendment
R Nickerson	Motion
F Robertson	Amendment
G Robinson	Motion
J G Simpson	Motion

Further Amendment (F B Grains)	10
Motion (C Smith)	9

Mr A Wishart moved as a further amendment that the Development Committee set aside £50k so that the Development Department can appoint staff to produce a business plan to explore co-operative and charitable status in Shetland, and that with regard to finding solutions for the agricultural industry in Shetland, that this be done in-house, whether or not SLMG ceases to operate or not. In this way, the matter would overcome any State Aid issues. However, Mr Wishart said he would withdraw his further amendment if Mrs Grains would add to her successful amendment a timescale for the business plan to be reported to the Committee. Mrs Grains confirmed that it should be presented to the Development Committee within 1 cycle.

Mr A Wishart and Mr G Robinson withdrew their notice of further amendments. Accordingly the motion by Mrs F B Grains to defer the report for another cycle was declared the finding of the meeting.

26/09 **Shetland College – Knitting Machine and Design System – Exemption from Standing Orders**

The Council considered a report by the Director Shetland College and approved the recommendation contained therein, on the motion of Mr C Smith seconded by Mrs L Baisley.

27/09 **Erection of SVT Jetty Access Towers 2009**

The Council considered a report by the Engineering Manager – Ports and approved the recommendation contained therein, on the motion of Mr J Henry, seconded by Mr G Robinson.

28/09 **Transfer of Scottish Water Assets to the Council**

The Council considered a report by the Acting Asset and Properties Manager and approved recommendation 8.1.1 contained therein, on the motion of Mrs C Miller, seconded by Mr A J Cluness.

[All officials, with the exception of the Chief Executive, Executive Director – Infrastructure Services, Executive Director – Education and Social Care, the Service Manager – Administration and the Committee Officer, left the meeting.]

[All officials, with the exception of the Chief Executive, Executive Director – Infrastructure Services, Executive Director – Education and Social Care, the Service Manager – Administration and the Committee Officer, left the meeting.]

29/09

Head of Service Salaries

The Council considered a report by the Chief Executive.

Mr Angus moved that the Council defer a decision on this report until such time as the Single Status agreement is reached. Mr Wishart seconded the motion by Mr Angus, subject to the deferral being until agreement is reached on Single Status, but by no later than the last Council meeting before the Summer recess, but also that recommendation 6.3, be granted immediately. Mr Angus agreed to accept this in his motion, and the Council concurred.

The meeting concluded at 1.30 p.m.

A J Cluness
Convener