

MINUTE

A & B

Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 20 May 2009 at 10am

Present:

A J Cluness	L Angus
L F Baisley	J Budge
A T J Cooper	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:

L F Baisley (for lateness)
E L Fullerton

In attendance (Officers):

M Goodlad, Chief Executive
W Shannon, Assistant Chief Executive
H Sutherland, Executive Director – Education and Social Care
G Greenhill, Executive Director – Infrastructure
N Grant, Head of Economic Development
G Johnston, Head of Finance
I McDiarmid, Head of Planning
M Craigie, Head of Transport
J Smith, Head of Organisational Development
M Holmes, Coastal Zone Manager
I Halcrow, Head of Roads
J Riise, Head of Legal and Administration
M Finnie, Capital Programme Service Manager
M Smith, Expenditure Manager
J Grant, Waste Services Manager
A Cogle, Service Manager - Administration
L Gair, Committee Officer

Chairperson

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

Circular

The circular calling the meeting was held as read.

The Convener advised the Committee that this was the last Council meeting that the Chief Executive would attend and said that a special event would be held next week to pay tribute to him followed by a small presentation.

The Convener said that following two Special Council meetings, a new Chief Executive had been appointed. He said that David Clark, who has his own consulting business, had worked with a number of large Local Authorities and the public sector. The Convener said that a point of interest was that Mr Clark's father was the first Chief Executive of the Council and was well known during the oil era. He said that Mr Clark went to school in Shetland before moving away. The Convener said that Mr Clark had worked on a number of large multimillion capital projects and was sure that, with his appointment, the Council would continue to provide the excellent services that Shetland desired. He said that a press release would be issued later today.

Declarations of Interest

Dr J W G Wills, Mr R C Nickerson, Mr A S Wishart, Mr L Angus, Mrs I J Hawkins and Mr G Robinson declared an interest in item 4.

Mr A T J Cooper, Mr A G L Duncan and Mrs C H J Miller declared an interest in items 4 and 9.

Mr W H Manson and Mr J H Henry declared an interest in item 1.

(Mrs L F Baisley attended the meeting)

50/09 Shetland Islands Council – 25 March 2009

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

31/09 Members attendance at external meetings

Mr R C Nickerson asked that "Shetland Schools Music Gala concert" be amended to read "Shetland Schools Music Festival".

51/09 Members Attendance at External Meetings

Mr J G Simpson – Scottish Fisheries Council, Edinburgh.

Mr L Angus said that following on from Mr Simpson update, he advised that SHOAL's response to the Scottish Marine Bill highlighted the impact on the ZCC Act and advised that it would no longer be compliant under the ZCC Act to issue Works Licences. He said that the Marine Bill would also have an affect on the control of inshore waters. Mr F A Robertson advised that a meeting had been arranged for next week with Tavish Scott MSP to discuss the matter.

52/09 Petitions

There were no petitions.

53/09 Development Committee – 30 April 2009

Except as undernoted, the minutes of the aforementioned meetings were confirmed on the motion of Mr J G Simpson, seconded by Mr A T J Cooper:

Mrs C H J Miller said that whilst in private, comments were made by Members about the lack of confidentiality in the Chamber. She said that it was important that the comments be minuted to highlight that there is problem. The Council agreed.

54/09 **Infrastructure Committee – 5 May 2009**

Except as undernoted, the Council approved the minute of the aforementioned meeting, on the motion of Mr A Wishart:

35/09 20 MPH Speed Limits at Schools

Amend “Mrs I J Fullerton” to “Mrs I J Hawkins”.

55/09 **Audit and Scrutiny Committee – 6 May 2009**

The Council approved the minute of the aforementioned meeting, on the motion of Mrs F B Grains, seconded by Mr R S Henderson.

56/09 **Services Committee – 7 May 2009**

The Council approved the minute of the aforementioned meeting, on the motion of Mr L Angus, seconded by Mr C L Smith.

57/09 **Planning Board – 9 April and 22 April 2009**

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

17/09 2008/09/PCD – to change use of existing food processing building to meat processing facility and abattoir, Unit 3, Blydoit, Scalloway by Shetland Abattoir Co-operative Ltd

Mr W H Manson advised that he had re-examined the application and said that the Planning Officers had to be commended for the thoroughness on this particularly controversial application, which had also included comments from other Council departments. He said that the planning reasons are strong to grant however the Board refused because it believed it was not the right place for it. He said that the Board had to apply the regulations and in his view, were the decision to be appealed the Council would find it difficult to defend adding that the application was not refused for reasons that would stand up if challenged. Mr Manson moved as an amendment that the application be granted. Mrs L F Baisley seconded.

Mrs I J Hawkins disagreed and stated that there were planning reasons for refusing the application. She said that there were many objections received including petitions with 274 names and objections from the Community Council. She said only one letter of support had been received. Mrs Hawkins stated that there were only 2 metres between the boundary fence at the Endavoe houses and the boundary of the proposed abattoir. She added that when the Endavoe housing scheme was approved, no one envisaged that the buildings would be identified for such an activity and that it was an unacceptable neighbour in a domestic situation. Mrs Hawkins said there would be an impact on both the upgraded play area, due to passing lorries, and the viewpoint at Scord. Mrs Hawkins listed and explained the various planning regulations that had been identified at the Planning Board meeting. Mr A J Hughson agreed with Mrs Hawkins and said that the change of use would contribute to the erosion of the residential area. Mrs C H J Miller said that her decision not to support the abattoir has not been taken lightly and said that the justifications provided by Mrs Hawkins were both material and justified.

Mrs F B Grains said that the report gave the impression that everything would be contained inside the building, but was of the opinion that that would not be the case, and at the very least the residents would be able to hear the animals arrive. She referred to condition 9 of the report and said that any further processes, following slaughter, would require further approval.

Mrs L F Baisley said that it was not an ideal place but said that the public or tourists would not see any of the activity and Members had been assured that there was no sound from the equipment used. She said she still supported the application.

Mr Budge said that the Council asked the industry to look for a site and a lot of time and effort had been put into finding and assessing this site, which did meet all the requirements. He said that anyone who had visited an abattoir would know that from outside there was no sound or smell and the perception that the aftermath of slaughter was visible was not what actually happened. Mr Budge said that if the application was to be turned down the Council must give assurance to the industry that a facility could be built and would cater for the whole of Shetland.

Mr C L Smith said that he was on the site visit and had been concerned that permission would be given for this change of use. He referred to the Infrastructure Committee where he had said that the Council had a duty to support the industry to find a suitable site, but it was important to get the right site. Mr Smith said that this was not the place for the abattoir and that he supported Mrs Hawkins comments.

Mr A G L Duncan said that the location was wrong and the community were opposed to the application and he too supported Mrs Hawkins comments. Mr Duncan added that there was no need to build a new facility and advised that there were two existing sites that could be considered for upgrading.

After summing up, voting took place with a show of hands and the results were as follows:

Amendment (W H Manson)	7
Motion (F A Robertson)	13

Mr Simpson referred to Mr J Budge's comments and said that the Council had to ensure that the Industry had the best quality abattoir possible and hoped that a solution could be found.

22/09 Revised Terms of Reference and Scheme of Delegation

Dr J W G Wills queried whether the revised terms of reference and scheme of delegation incorporated the new guidance, on the criteria for planning applications being called in by the Scottish Government. The Head of Planning confirmed that the scheme being put into place was from the 2006 Planning Act and advised that the legislation had changed in that applications would be called in only in circumstances where they were significantly different from the Development Plan.

58/09 Harbour Board – 29 April 2009

The Council confirmed the minute of the aforementioned meeting, on the motion of Mr A T J Cooper, seconded by Mr A T Doull.

59/09 Licensing Sub-Committee – 18 March and 27 April 2009

The Council confirmed the minute of the aforementioned meetings, on the motion of Mr C L Smith, seconded by Mr A J Hughson.

60/09 Anderson High School – Funding Proposals.

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

Mr A J Cluness moved that the Council approve the recommendations contained in the report. Mr F A Robertson seconded.

Mr L Angus said that the decision of the Services Committee was that the recommendations be approved.

Dr J W G Wills referred to the Services Committee, minute reference 51/09, and said that the report seemed a little premature and that he was still trying to get information on the following:

- Stage 3 asbestos survey
- Site waste management programme
- Updated cost plan (last provided in February)
- Estimate of unbudgeted costs for road works

Dr Wills said that he would like to have the information before further work on the project was done.

Mr Angus said that he shared Dr Wills' concerns regarding asbestos. However he said that the school had to be funded and in the unlikely event of a site change, approval for funding was required.

Mr W H Manson advised, for clarity, that as Chair of the Shetland Charitable Trust and SLAP, should they decide to participate in the funding of Anderson High School (AHS), he would cease to take part in the Council's decisions at that time. However, as a Councillor he was happy to consider today's report. On the issue of an asbestos report, Mr Manson said that the current building was not fit for purpose and the expense would be incurred anyway. Mr Manson added that the funding for the AHS should be found from without the Council's own finances and that the school should remain an asset of the Council for the whole of its life. Mr Manson moved that the Council agree that the Anderson High School be funded from the Council's own reserves adding that it would save a considerable sum from the revenue budget. Dr J W G Wills seconded.

Mrs C H J Miller declared an interest as a Director of SLAP and said she would not take part in voting.

After summing up, voting took place with a show of hands and the results were as follows:

Amendment (W H Manson)	4
Motion (Mr A J Cluness)	15

61/09

Capital Programme: Feasibility Studies/Working Up Project

The Council considered a report by the Capital Programme Services Manager (Appendix 2), and the Council approved the recommendations contained in the report, on the motion of Mr L Angus seconded by Mr F A Robertson.

In response to specific queries, regarding projects not listed, Members were assured that the projects on the capital programme still remained and a progress report would be presented to the Infrastructure Committee. The Chief Executive confirmed that feasibility studies work was ongoing.

Mr A T J Cooper said that projects such as the Whalsay/Vidlin Road had to be carried out together and said that there needed to be more joined up thinking to allow that to happen.

Dr J W G Wills referred to the Gulberwick Road and advised that, for the avoidance of doubt, the study was looking at protecting a possible route should improvements be required, and that a road was not being built through Gulberwick.

Mr F A Robertson said that one area of contention was the Council not designing or getting land in advance. He said that these projects were discussed at the Member/Officer Working Group - Roads and it took an average of 5 years between appraisal, design and land acquisition. He said that a simplified STAG process was in place for roads, as it was necessary to justify every step. Mr Robertson concluded by reiterating that it was important to have funds available for the advance design.

The Council agreed that the Member/Officer Working Group was a useful forum for discussing projects in more detail.

62/09

Performance Bonds on Works Contracts

The Council considered a report by the Capital Programme Service Manager (Appendix 3).

Following a brief discussion, Members sought clarity on the legal implication of discontinuing the Performance Bonds on Works Contracts. The Head of Legal and Administration advised that the bonds should not be confused with constructions bonds, which must be in place. He advised that the question to be considered was whether the market was more risky for some contracts. He said that this should be considered case by case. The Council concurred and approved the recommendations contained in the report on the motion of Mr A J Cluness, seconded by Mr J G Simpson.

Following notification by a number of Members declaring an interest in the following item, the Monitoring Officer confirmed that all Councillors had a declarable interest as members of the Pension Fund. However, he stated that as the report was of a strategic nature, the interests of Councillors were not so significant as to cause any conflict of interest.

63/09

Shetland Islands Council Pension Fund
Review of Funding Strategy Statement (FSS)

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

In response to a query from Dr J W G Wills, the Head of Finance referred to paragraph 5.1 and advised that the increased to the employee rate, for the next 3 years, was due to a number of factors including, investment in markets, long term ageing population i.e. more pensioners and longevity of pensioners. He added that these factors were common to all Local Authority pension schemes and stated that the rate in Shetland was amongst the lowest, if not the lowest in Scotland.

Mr G Robinson moved that the Council approve the recommendations contained in the report, seconded by Mr W H Manson.

The Head of Finance advised that the Council's Fund Managers would be attending a special meeting next week and would provide an opportunity to Members to pose specific questions on the Pension Fund's performance.

64/09 **Corporate Procurement Strategy – Update Report**

The Council considered a report by the Waste Services Manager (Appendix 5), and approved the recommendations contained therein on the motion of Mr A T J Cooper, seconded by Mr C L Smith.

65/09 **Fairer Scotland Funding 2009-10**

The Council considered a report by the Head of Organisational Development (Appendix 6).

(Mr C L Smith left the Chamber)

The Head of Organisational Development introduced the report. He advised that that the ring fenced funding would cease at the end of the current financial year. Mr A S Wishart commented that North Isles Childcare received half the funds required. Mr L Angus stated that a childcare review was currently underway and would be reported at the next cycle.

66/09 **Shetland's Single Outcome Agreement - 2009**

The Council noted a report by the Head of Organisational Agreement (Appendix 7).

(Mr W H Manson left the Chamber)

Mr A T J Cooper referred to the Agriculture Panel and advised Members of the comments regarding the Scottish Rural Development Plan and Rural Priorities and the concerns expressed that they would not achieve the outcomes that had previously been reported.

Mr Cooper advised that the Single Outcome Agreement needed to say the same as the industry, as referred to at the last meeting of the Agriculture Panel.

Mr A S Wishart advised that ZetTrans was to be recorded as a statutory body.

The Head of Organisational Development advised that the NHS and Police were signatories, but the details of signing was not clear. He confirmed that the Scottish Government were generally happy with the content of the agreement.

The Council approved the recommendations contained in the report on the motion of Mr A J Cluness, seconded by Mr J G Simpson.

(Mr C L Smith returned to the Chamber)

67/09 **Corporate Plan Progress Report 2008/2009**

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

In response to a query from Mr J H Henry regarding progress on fuel poverty, the Head of Organisational Development advised that he would provide Mr Henry with more detail.

(Mr W H Manson returned to the Chamber)

Mr R C Nickerson drew attention to page 1 of Appendix 1 and said that it would be useful to know how many jobs were being targeted. He said that decommissioning would attract more work to Shetland and asked for a report to the Development Committee on that topic.

Mrs L F Baisley drew attention to page 3 of Appendix 1 and noted that the report referred to 20 new businesses under merging industry. She asked how many jobs that represented. The Head of Organisational Development advised that the report was an interim one and that more complete information would be provided later. The Convener added that any points should be raised directly with the Head of Organisational Development.

Mrs Baisley said she was concerned that the Shetland College was developing new courses and said that it required more learning accommodation to enable it to progress with these new courses.

In response to a further query from Mrs Baisley the Head of Organisational Development advised that he would provide her with more information with regard to domestic abuse figures.

Dr J W G Wills drew attention to page 20 and the employee satisfaction survey carried out by Human Resources. He said that one in five employees were not happy and said that Members should be concerned with this.

Mr A G L Duncan referred to the Housing Service and in response to his query, the Chief Executive said that there was no reason why the Council would not get the £250,000 grant applied for.

Mr J G Simpson was advised that the ERD Funding for the Skerries South Mouth would be available until 2012.

Mrs I J Hawkins drew attention to page 10 – Social Exclusion and said she was pleased to see that the results from the anonymous study carried out in Scalloway and the North Mainland, was being followed up on.

Mr A J Cluness moved that the Council approve the recommendations contained in the report, seconded by Mr R C Nickerson.

68/09

Single Status Update

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

(Mr A T J Cooper declared an interest and left the Chamber)

(Mr L Angus, Mrs L F Baisley and Mr A G L Duncan left the Chamber)

The Convener said that the Head of Organisational Development had worked hard with Members to reach this stage and said that Unions voted 90% in favour. He thanked everyone involved for the remarkable achievement.

The Head of Organisational Development said that he had researched other local authorities on their processes and costs and said he could find no other authority that came as close to a solution between all parties and that the Council had not needed to seek external assistance. He said that Unions and the Single Status Team had done a lot of hard work and he was now pleased to report the situation.

Mr J G Simpson moved that the Council approve the recommendations contained in the report, seconded by Mr C L Smith.

Mr G Robinson said that Members recognised that this was not the end of the process for other groups who had yet to find an agreement and that the new Chief Executive would pick up on the areas outstanding. He said however that the process had reached an important stage.

The meeting concluded at 11.30am.

A J Cluness
Convener