

**Shetland Island Council  
Council Chamber, Town Hall, Lerwick  
Wednesday 15 September 2010 at 10 a.m.**

**Present:**

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

**Apologies:**

L Angus A Duncan  
A Hughson C Miller

**In Attendance:**

A Buchan, Chief Executive  
H Sutherland, Executive Director Education and Social Care  
S Cooper, Head of Environment and Building Services  
M Craigie, Head of Transport  
N Grant, Head of Economic Development  
I McDiarmid, Head of Planning  
J R Riise, Head of Legal and Administration  
R Sinclair, Head of Capital Programming  
J Smith, Head of Organisational Development  
K Foster, Accountancy Officer  
B Hill, Action DM Legal Services  
J Holden, Development Management Manager  
W Shannon, Assistant Chief Executive  
H Tait, Service Manager – Management Accountancy  
A Cogle, Service Manager – Administration

**Declarations of Interest**

Dr J Wills declared an interest in any reference to the Education department or its budget, as his wife was a member of staff in the Education department. In relation to the minute of the Planning Board of 1 September, and minute reference 4710 – Monitoring of Marine Aquaculture Sites - Dr Wills said he had raised an interest as a tourism operator.

subject to the following, the Council confirmed the minute of meeting held on 30 June 2010, on the motion of Mr A J Cluness, seconded by Mr C Smith.

Min. Ref. 94/10 – Services Committee - Min. Ref. 47/10 Blueprint for Education in Shetland: Stage 3 Formal - Proposals for the Future of the School Estate in Shetland

Mr R Nickerson said that he had not requested figures for the meeting, but they had been requested by Dr Wills and Mr Wishart.

125/10 **Members Attendance at External Meetings**

B Fullerton	-	CoSLA Community Safety and Wellbeing Committee and Health and Wellbeing Committee, Edinburgh
J G Simpson	-	Scottish Fisheries Council, Edinburgh
A Cooper	-	Northern Joint Police Board, Inverness
A Duncan	-	Highlands and Islands Fire Board, Stornoway
R Nickerson	-	NFLA / Mayors for Peace, Glasgow
F A Robertson	-	Planning Summer School, York
A J Cluness	-	Meeting With Stewart Stevenson
A Wishart	-	MSP, Minister for Transport, Edinburgh

126/10 **Petitions**

The Council noted that a request had been received from Yell Community Council relating to a petition from local residents for a walkway from Steenbrae to Aywick Shop, Yell.

The Council heard that the matter had been referred to the Member/Officer Working Group for Roads to be discussed and assessed, and thereafter a report will be submitted to the Infrastructure Committee for a decision.

127/10 **Audit and Scrutiny Committee – 23 August 2010**

Subject to the following, the Council confirmed the minute of meeting held on 23 August 2010, on the motion of Mrs F B Grains.

Min. Ref. 34/10 - Council Housing – Property Damage over 5 Years

Mrs L Baisley said that during discussion of this item, the Committee had heard from the Executive Director Infrastructure with regard to the system used by Edinburgh City Council whereby the Police work together with the Housing Department in order to avoid damage in certain circumstances. She said that she

felt that was good practice that should be noted. Mr Cluness said that this would be passed on to the Executive Director to take forward.

128/10 **Development Committee – 26 August 2010**

The Council confirmed the minute of meeting held on 26 August, on the motion of Mr J G Simpson, seconded by Mr A Cooper.

12910 **Infrastructure Committee – 31 August 2010**

Except as undernoted, the Council confirmed the minute of meeting held on 31 August on the motion of Mrs I J Hawkins.

Min. Ref. 67/10 - Fixed Link Policy Managerial and Governance Proposal

Mrs I J Hawkins moved that Mr A Wishart, as Vice-Chairperson of the Infrastructure Committee, be added to the membership of the Steering Group. Mr C Smith seconded, and the Council concurred.

130/10 **Services Committee – 2 September 2010**

The Council confirmed the minute of meeting held on 2 September 2010, on the motion of Mr C Smith.

131/10 **Planning Board – 7 July, 4 August and 1 September 2010**

Except as undernoted, the Council confirmed the minutes of meetings held on 7 July, 4 August and 1 September, on the motion of Mr F A Robertson.

1 September 2010 – Min. Ref. 51/10 - Advertisement Consent Application for signage board illustrating North Ness Business Park, Lerwick by Hunter and Morrisons

Mrs I J Hawkins advised that she should have declared an in this item.

1 September 2010 – Min. Ref. 49/10 - 1) 2009/235/PCD and 2) 2009/236/PCO. 1. To erect 21 dwelling houses and associated parking and access roads (full permission), Utnabrage, Upper Scalloway. 2. To provide mixed use development, incorporating residential, business and commercial zones (planning permission in principle), Utnabrage, Upper Scalloway by JHB Ltd. (In Liquidation)

Mrs B Fullerton said that she had attended several meetings with the applicant and the Planning officials to try to resolve the issues, but they had been unable to resolve the situation to the satisfaction of both parties. She added that there were still some issues outstanding which she would take up separately with the Chief Executive with regard to the process that this applicant had gone through, but she said it had to be stressed that there was an urgent need in the Central Ward for housing, and it was important that future applications are not held up in order to wait for the outcome of the Main Issues report or a new Development Plan, as the need was too great. Mrs Fullerton said she would not be making an amendment to the decision made at the Planning Board, as to put the matter back to the Planning Board would only delay matters further. Mrs Fullerton confirmed that the applicant would be able to appeal directly to the Scottish Ministers.

1 September 2010 – 47/10 - Monitoring of Marine Aquaculture Sites

Mrs L Baisley referred to the fourth paragraph, and said that “checks on predation” should read “checks on anti-predation measures”.

Dr J Wills expressed concern at the lack of resources for carrying out inspections, and the absence of conditions on licences with regard to anti-predator measures. He added that Shetland had a successful fish farming industry and there was a

need to ensure that current ownership understood the requirements, and the Council was carrying out its duties of inspection, but he questioned why there was no condition being applied with regard to anti-predator measures being in place.

Mr F A Robertson said he fully appreciated the concerns being raised. He said that under the ZCC Act 1974 the Council had responsibility for setting the conditions for the management of fish farms, but that this responsibility was now moving from the ZCC Act to Planning legislation, and permission was now given in perpetuity, rather than a licence for a limited period. He said that two members of staff have carried out these inspection from the shore to check on the location and situation of the farms, but they were now looking making inspections from the sea, and this would be to identify the GPS location, lights and equipment. Mr Robertson said that anti predator nets were checked, but these were not included in the Licence conditions. However, he said that meetings were being arranged with developers and owners in the aquaculture industry to discuss the management and control of fish farming, and the question of anti predator measures would be subject to that discussion also with a view to establishing a proper system of control.

Mr J Henry said that another concern was the number of sites being held forever, but not being used. It was noted that a number of retrospective applications were also being made.

Dr Wills said he noted what Mr Robertson said, but his further concern was that the service did not have the resources in place to carrying out the monitoring to a satisfactory level.

Mr A J Cluness said this was clearly work in progress, but moved that a report be presented on those areas of concern and to seek clarification on what parts of the ZCC Act conditions could still be imposed. Dr J Wills seconded.

The Head of Planning advised that, as reported to the Planning Board, discussions were also being held with SEPA and SNH with regard to their responsibilities, and it was intended that a report covering all the issues of concern, including those relating to resources, would be brought back to the Planning Board.

Mr A Cooper said that the Harbour Board had also raised concerns regarding invasive species coming in via the bilges of yachts, and suggested that this matter could also be dealt with as an issue in discussions with SEPA.

Mr Cluness said that there were a number of issues, perhaps wider than planning, and that the Chief Executive be asked to take on board all the issues and comments raised today, and to co-ordinate the responses and report back to the Council. The Council concurred.

132/10 **Harbour Board – 25 August 2010**

The Council approved the minute of the aforementioned meeting, on the motion of Mr A Cooper.

Mr Cooper referred to Min. Ref. 41/10 – Pool Crews – and the Council noted that the Board had agreed that further discussions be held with the Unions to ensure proper working practices were in place. He said that discussion was ongoing, and there would be a positive outcome to it.

133/10 **Licensing Sub-Committee – 3 September 2010**

The Council approved the minute of the aforementioned meeting, on the motion of Mr C Smith.

134/10 **Corporate Improvement – Initial Actions**

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

After hearing the Chief Executive introduce the terms of the report in detail, Mr A J Cluness said that he had been impressed by what the Chief Executive had said in his report, and moved that the Council adopt the recommendations therein. Dr J Wills seconded.

Mr R Nickerson asked that the Chief Executive give consideration to the role of Spokespersons during the governance discussions, and offered to discuss this separately with the Chief Executive if needed. Regarding recommendation k), in relation to jobs dispersal, Mr Nickerson said he congratulated the Chief Executive in taking this forward.

Mrs B Fullerton said she would like to thank the Chief Executive for a concise and clear report. She said she did not think any of the Councillors took these matters lightly at all, and that she saw this as a watershed, and that the Council could now move forward. Mrs Fullerton said there would be a lot of hard work, and she agreed that the Spokesperson roles were important and should be considered as part of the governance review, and she was also glad to see reference to job dispersal. Regarding the membership of the Sounding Board, Mrs Fullerton asked whether these were to be one Member from each Ward, or whether the Council would appoint those who were prepared to take on this role and commit their skills and time. She said her own feeling was that the Accounts Commission had criticised the Council for its own inability to differentiate between responsibility for constituents and the Council overall, and wanted some indication as to the thoughts that decided that 7 was the right number.

The Chief Executive said he thought that 7 was round about the right number, giving a sufficient number for representation, but not unwieldy. He said that the primary concern would be commitment to the process, but it was a matter for consensus amongst Members as to how the membership was drawn. Mr A J Cluness said that his view was that the membership should not necessarily be by the senior Members, but perhaps would be an opportunity for other Members to be part of the process.

Mrs L Baisley referred to recommendation b) and asked what was meant by the relationship between internal processes and community planning. The Chief Executive said that he had not yet had time to devote to community planning, but from the discussions he had had, there was a need for a refresh of the community planning process, as well as the internal decision making structures that are in place to support that. He said it was not just the Community Planning Partnership but everything that sat beneath that and its general direction.

Mrs L Baisley said she too was delighted to see reference to job dispersal and more effective working, which would assist with distribution of the economy.

Mr A Cooper said that this was the beginning of a journey some of which needed to be tackled with a degree of urgency, and he also congratulated the Chief Executive for the progress, but he said there was a steep hill to climb first and the difficulties would lie in the detail. He referred to the budget strategy for 2011/12 and beyond, and asked if there was to be any consultation with the community on the range of cuts. Mr Cooper said his concern was also that the Scottish Government would only be coming with their settlement figures around the end of December, and that would not leave long for the budget details to be looked at and brought to Committee. He said that he would like to see some timescales attached to the proposals in the report. Mr Cooper also suggested that Members of the Sounding Board should be those who were not on the Financial Resources Member/Officer Working Group in order to share some of the load.

The Chief Executive said that he acknowledged that some issues needed to be dealt with as a matter of some urgency, but that consistency and cohesion had to be injected into the budget strategy before it could be put out to the public. He said that the detailed figures had to be known, and officers would move quickly on that and a report would be presented to the next meeting of the Council.

Mr G Robinson said he was pleased to see the terms of paragraph 5.1 of the report, and that some action would be taken on vacancy management. Mr Robinson said that at the present time the Council enjoyed a good relationship with the local press, and he wished to see that continue. He referred to the recommendation regarding jobs dispersal, and said it was brilliant to see this coming forward. Regarding Group Accounting, Mr Robinson said that there was a piece of work still outstanding by Dundas and Wilson, and perhaps they could be asked to finish that work.

Mr W H Manson said he also welcomed the terms of the report, and asked for clarification as to whether the recommendation to put resources in place would not result in additional costs. He also asked if such resources would be taken by redeployment of current staff, or experts from outside the Council. Mr Manson said that he noted that the any new Committee structure would be in place by Spring next year, but asked if there was any way in which that timetable could be advanced.

The Chief Executive said that he felt that Spring was a realistic timescale, but noted the request for a degree of urgency, and if Members were committed to putting in the time and resources to achieve that he would see if that could be accelerated. He added that the Council should not, however, underestimate the supporting systems that were needed also. Regarding additional resources, the Chief Executive said it was his intention to do this primarily by redeployment, but he could not rule out using external resources. He said that the challenges would include corporate and executive support, including Members and himself, and communications. The Chief Executive said that for communications in particular he was looking to bring support in for that area that would benefit from some improvement.

Mrs I J Hawkins said she had read in the media about this report being radical, but she said that quite a lot of it appeared to be just common sense. Mrs Hawkins said the Council should not go "hell for leather" to please community expectations, but should take a measured response to the Accounts Commission findings and take the time that is needed. She added that it was important that the Council got it

right. Mrs Hawkins said that the areas tried before that had not succeeded was jobs dispersal and communications, and hoped these areas could be improved.

*[Mr W H Manson left the meeting.]*

Mrs Hawkins referred to the proposal for a Sounding Board, and said that informal feedback was very important, and that overall she was very pleased with the terms of the report.

Dr J Wills said the reason he had seconded the motion to adopt the report was that he thought it was a very good report, although he had had some initial concerns, which had now been resolved after discussion with his colleagues and the Chief Executive. He said he was glad there were no proposals for lots of expensive outside consultants, and that the political restructuring of the committees and other matters were particular matters which the Council had to get on and deal with. Dr Wills said he was also glad there would be no big restructuring of staff, but that any reshuffling or review of senior managers should be done as soon as possible and along with the review of the Committee structure and tied into matters of delegated powers. Dr Wills said that he was a bit worried about the provisional budget, and hoped that it would be less than that. Regarding the Sounding Board, Dr Wills said he agreed that it should not be based on Ward representation.

*[Mr W H Manson returned to the meeting.]*

Regarding the proposals for a Communications office, Dr Wills said he did not think that Councillors should hide behind Press Officers, and said that the Communications Office should be there to make sure that Councillors are properly briefed and given assistance and not obstructed from representing the Council's views to the public.

The Chief Executive said he wished to re-assure Members that he did not want diminish the roles of Members, and part and parcel of good communications was ensuring that strategy and systems were in place that ensured information was circulated internally and externally. He said that the precise way in which the communications office would be developed as matters moved forward.

Mr A Wishart said that he also thought the report was very good, and was glad to see it linking into a communications strategy and system for providing support and assistance to Members. He said he was interested in comments regarding the Sounding Board, and that the means of addressing the findings of the Accounts Commission would be very high profile. He said that it was only fair that every constituency was represented, and moved that the Sounding Board consist of one Member from each of the Council's Wards. Mrs I J Hawkins seconded.

Mrs L Baisley moved as an amendment that the Sounding Board consist of any seven Members. Mr G Robinson seconded.

Members noted that the Sounding Board would be in addition to the Financial Resources Member/Officer Working Group and the informal meeting of senior Councillors and officers, which would still continue.

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

Amendment (L Baisley)                      6

Accordingly, Members proceeded to nominate and appoint Members to the Sounding Board, as follows:

North Isles

On the motion of Mrs B Fullerton, seconded by Mr A Cooper, Mrs L Baisley was appointed.

Shetland North

On the motion of Mr A Cooper, seconded by Mr W H Manson, Mr A Doull was appointed.

Shetland Central

On the motion of Mrs B Fullerton, seconded by Mrs I J Hawkins, Mr A Hughson was appointed.

Mrs I J Hawkins was nominated, but declined.

Shetland West

On the motion of Dr J Wills, seconded by Mr F A Robertson, Mr G Robinson was appointed.

Shetland South

On the motion of Mr G Robinson, seconded by Dr J Wills, Mr A Duncan was appointed, in absentia.

Mr R Nickerson was nominated, but declined.

Lerwick North

On the motion of Mr C Smith, seconded by Mr G Robinson, Mr A Wishart was appointed.

Lerwick South

Mr C Smith was nominated on the motion of Mr J Henry, seconded by Mrs I J Hawkins.

Dr J Wills was nominated on the motion of Mrs B Fullerton, seconded by Mr G Robinson.

Voting took place by secret ballot and the result was as follows:

C Smith	15
J Wills	3

Mr A J Cluness asked that the minute record the Council's tribute to the Depute Chief Executive and other senior officers for their hard work and for being supportive of officers during recent months. The Council concurred.

Mr Cluness also confirmed that comments relating to review of the Committee structure would be taken on board, and addressed as quickly as it could be done.

**The Council adjourned at 11.30 a.m.**



**The Council re-convened at 11.45 a.m.**

**Present:**

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

**Apologies:**

L Angus A Duncan  
A Hughson C Miller

**In Attendance:**

A Buchan, Chief Executive  
H Sutherland, Executive Director Education and Social Care  
S Cooper, Head of Environment and Building Services  
J R Riise, Head of Legal and Administration  
R Sinclair, Head of Capital Programming  
J Smith, Head of Organisational Development  
K Foster, Accountancy Officer  
W Shannon, Assistant Chief Executive  
H Tait, Service Manager – Management Accountancy  
A Cogle, Service Manager – Administration

135/10 **Appointment of Spokesperson – Culture and Recreation**

The Council considered a report by the Head of Legal and Administration (Appendix 1).

Mr G Robinson moved that the Council do not make the appointments, but that they be considered as part of the review of the Committee structure. Dr J Wills seconded.

Mr Robinson confirmed that his motion referred also to the external Trust appointments, adding that he was not convinced that the Council should be appointing to them, given the potential conflicts of interest. However, the Head of Legal and Administration advised that the requirement to appoint a Councillor arose from the terms of the Trust deeds, but it was a matter for the Council to choose whether or not to appoint.

Mr F A Robertson moved as an amendment that the Council proceed with the appointments today. Mrs I J Hawkins seconded.

Mr W H Manson gave notice of a further amendment.

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

Amendment (F A Robertson) 11

Accordingly, Mr F A Robertson moved that Mrs F B Grains be appointed to the role of Spokesperson for Culture and Recreation. Mr J Henry seconded. There being no other nominations, Mrs Grains accepted, and was duly appointed.

The following Members were duly appointed to the remaining vacancies:

Cultural Strategy Panel	L Baisley
Shetland Amenity Trust	J Wills
Voxter Centre Trust	A Doull

The Council recorded its thanks to Mr Nickerson for all the hard work he had done during his time as Spokesperson for Culture and Recreation.

136/10

### **Gateway Report Recommendations**

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

The Head of Capital Programming introduced the report, advising that the Service Need Reports had been considered by the Appraisal Panel and by the Financial Resources Member/Officer Working Group. He said that there was only one exception to the projects approved, being the Gulberwick Loop Road. He explained this had not been approved as it had not yet been allocated a place in the capital programme. The Head of Capital Programming said that the prioritisation process for the capital programme would take place between now and October.

Mr G Robinson said he was pleased to see the report, and said that the reports each demonstrated a clear and justifiable evidence for the projects. Referring the Bixter to Aith Phase 2 project, Mr Robinson said he was also pleased to see that there would be an early start to this.

Dr J Wills referred to the Gulberwick Loop Road Design project, and said that particular road safety issues in this area required to be resolved, specifically relating to Stunken Brae and Langton Corner. Mr C Smith agreed, adding that there was a meeting planned with officers from the Roads Service to discuss what could be done, particularly before the start of another winter. He said that the school bus operators had expressed concern and there was the possibility that the would not use that part of the loop road until road improvements were made. The Head of Capital Programming agreed to take the matter up with the Roads Service after the meeting.

Mr R Henderson referred to the Gutcher to Cullivoe project, and said that he was delighted to see this road would be progressed. He said that the road was a vital link for the fish farming industry in the communities illustrated by the high value of exports from the area, and hoped that the project could be progressed sooner rather than later.

Mrs F B Grains asked why the Laxaburn Bridge would be delayed. The Head of Capital Programming said that the report was advising only that the timing was

flexible, and the actual timing of this within the overall capital programme had not yet been set. He re-affirmed that the prioritisation of the programme would come back to the Council in the October cycle.

Mrs I J Hawkins said that the road safety issues at Mill Brae in Scalloway were also of concern, and hoped that the Roads Service would take up that matter also.

Mr J G Simpson referred to the Old Breakwater Symbister, and said that this structure appeared to be deteriorating and had not been subject to maintenance for a long time, and hoped that this would also be looked at favourable during the prioritisation process.

Mr W H Manson said that, whilst he was not diminishing the need for road safety improvements in the Gulberwick area, Members were in danger of bypassing the Gateway system.

The Council approved the recommendations in the report, on the motion of Mr G Robinson seconded by Mr A Cooper.

137/10

**Capital Programme Progress Report**

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

Mr R Nickerson queried the accuracy of the statement that the development of a new Halls of Residence had no approved budget. The Head of Capital Programming advised that the working budget for the new Anderson High School was set at £49m for taking forward the brief, and part of that brief was the Halls of Residence, and therefore it had no separate budget attached to it.

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

138/10

**Revenue Management Accounts for the Period 1 April 2010 to 31 July 2010 – General Fund, Harbour Account, Housing Revenue Account and Reserve Fund**

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

Mr R Nickerson queried whether the £1.4m savings referred to in paragraph 10.1 included the savings from the introduction of music charges of either £130k or £90k. The Service Manager Management Accountancy advised that she did not have that detail to hand, and would provide that to Mr Nickerson after the meeting.

Mr A Cooper said that the overall picture at this stage was quite worrying. He said that the Council was embarking on the budget exercise for next year, but had not yet balanced the accounts for the current year and he thought more effort was needed in this area.

With reference to the claim by Lerwick Port Authority, Mr Cooper asked if there were any further costs in relation to that claim. The Head of Legal and Administration advised that there was still work ongoing on that matter which were incurring costs as part of a ongoing legal process.

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

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

139/10     **Minute of Employees JCC – 24 August 2010**

The Council noted the minute of the Employees Joint Consultative Committee held on 24 August 2010.

140/10     **Restructuring of Capital Programme Service**

The Council considered a report by the Head of Capital Programming and approved the recommendations contained therein, on the motion of Mr C Smith, seconded by Mr F A Robertson.

The Council concluded at 12.20 p.m.

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A J Cluness  
Convener