

**Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 21 March 2012 at 10.00 a.m.**

Present:

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

Apologies:

A T J Cooper

In attendance (Officers):

A Buchan, Chief Executive
P Crossland, Director of Infrastructure Services
C Ferguson, Director of Community Care
B Lawrie, Director of Corporate Services
J Riise, Executive Manager – Governance and Law
R Sinclair, Executive Manager – Capital Programme
C Black, Procurement Manager
A Cogle, Team Leader - Administration
J Molloy, Asset Strategy Manager
S Pearson, Safety and Risk Services Manager
E Perring, Policy Manager – Poverty and Social Exclusion
C Anderson, Senior Communications Officer
K Foster, Accountancy Officer
P Wishart, Solicitor
L Adamson, Committee Officer

Chair

Mr Cluness, Convener of the Council, presided.

Circular

The circular calling the meeting was held as read.

Dr Wills asked why an item had not been included on the agenda to discuss the list of questions he had submitted relating to the special meeting of the Council on 22 February. Dr Wills was advised, and the Convener ruled, that the requested agenda item was not relevant to the Council's business for today, and the Council had already made a determination in relation to the matter being questioned. However, it was noted that Dr Wills had separately been provided with a response to his questions by the Leader. Dr Wills asked that his challenge to this ruling be noted, and gave notice that he would discuss the matter in a public platform outwith this meeting.

The Convener referred to the Government's recent decision to discontinue emergency towing cover and advised that the provision of Emergency Tug Vessels would be discussed at next week's Council meeting.

Declarations of Interest

Mr Nickerson and Mr Duncan declared an interest in Item 9 "Shetland Islands Council Pension Fund – Statement of Investment Principles".

Mr Duncan, Mr Nickerson and Mr Sandison declared an interest in Item 10 "Community Councils Financial Position", as Community Councillors.

17/12 Minutes – 8 February 2012, 9 February 2012 and 20 February 2012

The Council approved the minutes of the meeting held on 8 February 2012 on the motion of Mr Smith, seconded by Mr Cluness.

SIC – 9 February 2012

Except as undernoted, the Council approved the minutes of the above meeting on the motion of Mr Smith, seconded by Mr Cluness.

Mr Nickerson advised that he had declared an interest as a Director of SHEAP, however this had not been recorded in the minute.

14/12 – General Fund Revenue Estimates

Reference was made to the decision made not to approve savings in relation to the CAB Service Level Agreement, and to the way in which this decision appeared to conflict with the decision to make the agreed 10% reduction in commissioned services Service Level Agreements. Concern was expressed regarding the potential impact this would have on those organisations concerned, including CAB, and the ongoing services they provided. The Council noted that the decisions were not incompatible, but agreed that the Director of Community Care Services provide Members with further written clarification on the impacts, after the meeting.

Special SIC – 20 February 2012

Except as undernoted, the Council confirmed the minutes of the above meeting, on the motion of Mr Cluness.

Min Ref: 20/12: Lerwick Port Authority – Court Action

Mr Robinson advised that he wished to make some corrections to the minute, and as this was an exempt item, it would be considered later in the meeting.

18/12 Petitions

The Council had received a petition, against the closure of the Freefield Centre, with around 1500 signatures.

In noting the petition, the Council agreed that as the future of the Freefield Centre has been agreed by the Council as a matter for review, the Petition will be remitted to the Director of Community Care Services to consider as part of that review, and subsequent reporting to Council.

19/12 Notice of Motion

The Council considered a Notice of Motion in the following terms:

“In view of the very serious position on the Council’s budget, and having regard to a number of important decision that must be taken very soon, this Council instructs the Chief Executive to convene a meeting of the new Council as soon as possible following the election on 3 May, and no later than Friday 11 May.”

Dr Wills introduced his Notice of Motion, which he said would avoid the long period with no Council meetings, allow the new Council to elect the Convener and to discuss any urgent Council business. Mr Robinson seconded.

During the discussion, it was questioned whether the short period between the Election and the statutory meeting on 11 May would allow sufficient time for the new Councillors to accept Office and to undertake the necessary induction training before making such important decisions.

Mr Smith moved a direct negative to the motion, as an amendment, to the effect that the first meeting of the new Council should be held in accordance with the Council’s Constitution. Mrs Miller seconded.

Following summing up, voting took place by a show of hands, as follows:

Amendment (Mr Smith)	15
Motion (Dr Wills)	4

20/12 **Chairs’ Report – Childcare Strategy 2012-15**

The Council considered a report by the Chairs of the Education and Families Committee and the Executive Committee (Report No: SIC-0321-CS01), which allowed for consideration of the recommendation of the Education and Families Committee and the Executive Committee regarding the refreshed Childcare Strategy 2012-2015.

Mrs Fullerton moved that the Council approve the recommendation in the report. Mr Robinson seconded.

Decision:

The Council **RESOLVED** to adopt the Childcare Strategy 2012-2015.

21/12 **Chairs’ Report – Poverty, Disadvantage and Social Exclusion**

The Council considered a report by the Chairs of the Social Services Committee and the Executive Committee (Report No: SIC-0321-CC08), which concerned the refreshed Fairer Shetland Framework for 2012/13.

Reference was made to the previous decision for the Council to ask the Shetland Charitable Trust to consider assistance to people in fuel poverty who would otherwise not be eligible for the SCT Christmas grant, and it was suggested that this request would be followed up in the new Council.

Mr Smith moved that the Council accept Recommendations 2.2.1, 2.2.2 and 2.2.4 in the report, but to remove the wording, “That the Council defers this report to the next Council, and that” is removed from recommendation 2.2.3. Mr Duncan seconded.

Decision:

The Council **RESOLVED**:

- to adopt the Fairer Shetland Framework 2012/13;
- to delegate authority to the Director of Community Care, or her nominee, in consultation with Community Planning Partners, to amend the framework to integrate with the updated Community Plan/Single Outcome Agreement;
- that discussion be held with Shetland Charitable Trust and any other third parties with a view to finding a way forward to assist households in poverty; and
- to approve that a report be presented to the Council in relation to energy efficiency standard to Council housing stock.

22/12 Chairs' Report – Road Safety Strategy and Action Plan 2012-17

The Council considered a report by the Chairs of the Environment and Transport Committee and the Executive Committee (Report No: SIC-0321-GL10), which presented the Road Safety Strategy and Action Plan 2012-17.

Mr Henderson moved that the Council approve the recommendation in the report. Mr Smith seconded.

Mrs Baisley asked that the Council reconsider passing a by-law whereby drivers keep their lights on during winter months. The Executive Manager – Governance and Law said that this would be taken forward as an action point to the Road Safety Advisory Panel, in the first instance.

Decision:

The Council **RESOLVED** to adopt the Road Safety Strategy and Action Plan 2012-2017.

23/12 Chair's Report – Progress Report – Capital Programme

The Council considered a report by the Chair of the Executive Committee (Report No: SIC-0321-CPS02), which presented progress on the programme with a view to establishing an overview for all projects. The report also informed on slippage and savings that have occurred within the Capital Programme.

Mr Simpson moved that the Council approve the recommendation in the report.

(Mr Manson attended the meeting).

In response to queries, it was reported that the Council's recent approval of the Asset Strategy will ensure all vacant properties are assessed to determine whether there is an immediate use for the property or whether the property should be disposed of, and will drive the maintenance programme. The Executive Manager - Capital Programme advised that the Implementation Plan, to include details of all Council assets, will be presented within the first year of the new Council.

Ms Baisley seconded.

Decision:

The Council **RESOLVED** to approve the allocation of budgets, slippage, savings and transfers.

24/12 **Chair's Report – Procurement Strategy 2012-15**

The Council considered a report by the Chair of the Executive Committee (Report No: SIC-0321-CPS01), which presented the revised corporate procurement strategy established for 2012 to 2015.

Mr Simpson moved that the Council approve the recommendation in the report. Mr Cluness seconded.

During the discussion it was reported that a recent meeting with Council Members and representatives of the construction industry had allayed some concerns within the industry in regards to the Council's procurement proposals, and it was reported that the Council is not compelled to use the national Hubco procurement approach.

Ms Baisley commented that the during the selection process, consideration should be given to the social benefits rather than accepting the cheapest bid.

Decision:

The Council **RESOLVED** to:

- approve the corporate procurement strategy; and
- approve delegated authority to the Director of Corporate Services or his nominee to:
 - Implement the corporate procurement strategy as approved;
 - Enter into such collaborative contracts/frameworks as are deemed appropriate and necessary in accordance with the corporate procurement strategy, subject to consultation with the Executive Manager – Governance and Law, or his nominee.

25/12 **Chair's Report – Annual Investment Strategy**

The Council considered a report by the Chair of the Executive Committee (Report No: SIC-0321-F021), which proposed the annual investment strategy for the Council for the financial year 2012/13.

Mr Simpson moved that the Council approve the recommendation in the report. Mr Cluness seconded.

Decision:

The Council **RESOLVED** to:

Approve the investment strategy to be followed for the financial year 2012/13; and

Adopt the following items:

Revised CIPFA Code of Practice for Treasury Management in the Public Services 2011;

- Four clauses within the Code of Practice which CIPFA recommend that all public service organisations adopt;
- The Treasury Management Policy Statement;
- The Statement of Treasury Management Practices; and
- That Section 9 of the SIC Pension Fund Statement of Investment Principles, relating to responsible investments, be added to the Council's Annual Investment Strategy Statement.

(Mr Duncan left the meeting).

26/12 **Chair's Report – SIC Pension Fund – Statement of Investment Principles**

The Council considered a report by the Chair of the Executive Committee (Report No: SIC-0321-F023), which proposed a new Statement of Investment Principles for the Shetland Islands Council Pension Fund.

Mr Simpson moved that the Council approve the recommendation in the report. Ms Baisley seconded.

Decision:

The Council **RESOLVED** to approve the Statement of Investment Principles for the Shetland Islands Council Pension Fund.

27/12 **Chair's Report – Community Councils Financial Position**

The Council considered a report by the Chair of the Executive Committee (Report No: SIC-0321-F022), which provided information on the position of the 2010/11 Community Council Annual Accounts, in accordance with the grant scheme approved in March 1999, and sought approval of the grant payments for 2012/13.

Mr Simpson moved that the Council approve the recommendation in the report.

In response to questions, the Director of Corporate Services explained that the intention is not to reduce the funding, but to look at whether Community Councils could take on additional activities to achieve the best delivery of services and achieve a similar overall financial outcome for the Council. He added that the expectation is that the Review would be carried out in advance of the second instalment of funding to Community Councils, to be paid in September

Mr Cluness seconded.

Decision:

The Council **RESOLVED** to approve 50% of the Community Council grants for 2012/13; and not to remove the 10% surplus from the two Community Councils holding a surplus.

(Mr Duncan returned to the meeting).

28/12 **Chair's Report – Planning and Performance Management Framework – Further Development**

The Council considered a report by the Chair of the Executive Committee (Report No: SIC-0321-IP006), which presented proposed measures to further develop the Council's Planning and Performance Management Framework (PPMF).

Mr Simpson moved that the Council approve the recommendation in the report. Mrs Baisley seconded.

Decision:

The Council **RESOLVED** to approve the guidance in order to strengthen and deepen the Council's Planning and Performance Management Framework.

(Mr Manson declared an interest in the following item as Chair of Shetland Charitable Trust (SCT). Mr Henry declared an interest as Vice-Chair of SCT).

29/12 Residential Care Charges

The Council considered a report by the Director of Community Care Services (Report No: CC-11-12-F), which presented proposals for residential care charging for 2012/13.

During the discussion, the Director of Community Care Services responded to questions from Members regarding the proposed charging for residential care. Members congratulated the Director of Community Care Services and her staff on the reduction in charges this year, and for the further reductions envisaged in future years.

Mr Cluness moved that the Council approve the recommendation in the report. Mr Simpson seconded.

Decision:

The Council **RESOLVED** to approve the residential care charges for 2012/13.

(Mr Manson declared an interest in the following item as Chair of Shetland Charitable Trust (SCT). Mr Henry declared an interest as Vice-Chair of SCT. Mr Manson and Mr Henry left the meeting during the discussion).

(Dr Wills left the meeting).

30/12 Re-organisation of the Gilbertson Trust and the Mullay Bequest

The Council considered a report by the Executive Manager – Governance and Law (Report No: GL-25-12-F), which sought instruction in regards to the future of two trusts of which the Council are the Trustees.

The Executive Manager – Governance and Law summarised the main terms of the report.

Mr Angus moved that the Council approve the recommendation in the report. Mr Robinson seconded.

Decision:

The Council **RESOLVED** to approve:

- (a) The proposal to make an application to the Office of the Scottish Charities Regulator under Section 39 of the Charities and Trustee Investment (Scotland)

Act 2005 to donate the trust funds held in the Gilbertson Trust to Shetland Charitable Trust and bring an end to the Gilbertson Trust.

- (b) The proposal to make an application to the Office of the Scottish Charities Regulator under Section 39 of the Charities and Trustee Investment (Scotland) Act 2005 to donate the trust funds held in the Mullay Bequest to the Shetland Health Boards Endowments Funds and bring an end to the Mullay Bequest.

(Mr Manson, Mr Henry and Dr Wills returned to the meeting).

31/12 **Proposed 5-year Asset Investment Plan 2012-17**

The Council considered a report by the Executive Manager – Capital Programme (Report No: CPS-03-12-F), which set out proposals for a sustainable 5-year Asset Investment Plan.

The Executive Manager – Capital Programme summarised the main terms of the report, and responded to questions from Members on a number of the projects.

During the discussion and in response to concerns regarding the Burra Bridge and Trondra Bridge projects, the Director of Infrastructure Services provided reassurance that dialogue would take place with the Community Council and the wider community into when the bridges will have to be closed for the works to be carried out, and that the works on the Burra Bridge project would commence in the Spring of 2013, and the Trondra Bridge in the Spring of 2014.

In response to a question, the Director of Corporate Services advised that provision for spend to save projects had been included in the closure of the accounts last year and also in the 2012-13 approved revenue budget, and he would encourage a similar practice for future years. He clarified that there required to be a process for approval of applications and that all capital spend to save projects would go through the Gateway process.

The Executive Manager – Capital Programme advised that the application for funding for the AHS project is to be submitted in July, and that he is working on a bid to meet the criteria, which will be reported to the first cycle of the new Council.

In response to questions regarding the Haggersta road project, the Director of Infrastructure Services advised that the Scottish Government had confirmed the Compulsory Purchase Order and Stopping Up Order, however no budget was currently in place for the project.

Mr Nickerson advised of his concerns that the replacement for the “Good Shepherd” ferry was not included as a project within the 5-year programme. Mr Nickerson moved that funding for design and replacement for the Fair Isle ferry is taken from the 5 year ferries budget, with the target for the replacement ferry by 2016/17. Mr Duncan seconded.

(Mr Hughson left the meeting).

Mr Robinson moved as an amendment that the Council approve the recommendation in the report, with the addition that delegated authority is given to the Chief Executive to approve projects and expenditure under the capital and revenue spend to save budgets. Mr Angus seconded.

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

Amendment (R Nickerson)	7
Motion (G Robinson)	10

Decision:

The Council **RESOLVED** to:

- adopt the Council's 5-year Asset Investment Plan, subject to any requirements of the Council's 'gateway' process, the resolution of any issues relating to external funding and the continuation of necessary funding levels from the interest on capital and from government grants, and
- approve delegated authority to the Chief Executive to approve projects and expenditure under the capital and revenue spend to save budgets.

(Mrs Baisley left the meeting).

32/12 **Scalloway School Secondary Department – Feasibility Study Progress Report**

The Council considered a report by the Executive Manager – Capital Programme (Report No: CPS-04-12-F), which presented the findings of a Feasibility Study to determine the future use of the vacant Scalloway School secondary department.

Members discussed a number of the options to be included in the feasibility study, and disappointment was expressed that there had been no formal consultation with the Community Council.

During the discussion, Members asked that the feasibility study take into account the potential for future significant housing development in the area, and that fixed term leases could be utilised to allow alternative uses of the buildings in the future.

Mr Wishart moved that the Council approve the recommendations in the report. In seconding, Mr Robinson asked for, and received, assurance that formal consultation would take place with the Community Council and the wider communities.

Decision:

The Council **RESOLVED**:-

- a) to note the contents of the report, and
- b) that formal consultation would take place with the Community Council and the wider communities on the options for the vacant buildings.

Mr Cluness moved that in order to avoid the disclosure of exempt information, the Council resolve to exclude the public in terms of the relevant legislation during consideration of the following item of business. Mr Robinson seconded.

(Mr Budge and Mr Henry declared an interest in the following item and left the meeting. Mrs Fullerton, Mrs Miller and Mr Smith left the meeting).

33/12 **Min Ref: 20/12 – Lerwick Port Authority**

After comments were made by Dr Wills and Mr Angus in relation to the decisions reached by the Council, the Chief Executive advised that no further debate of this issue should be undertaken as this may pre-empt any further action that may be taken in relation to the decision by the Council.

The meeting concluded at 1.10 p.m.

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Chair