

**Shetland Islands Council
03 November 2004 Public Minutes**

Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 3 November 2004

Present:

A J Cluness	L Angus
B J Cheyne	C B Eunson
R G Feather	F B Grains
B P Gregson	L G Groat
I J Hawkins	J H Henry
J A Inkster	E J Knight
W H Manson	G G Mitchell
J P Nicolson	F A Robertson
J G Simpson	T W Stove
W N Stove	W Tait

Apologies:

J C Irvine	W A Ratter
-------------------	-------------------

In attendance (Officers):

M Goodlad, Chief Executive
J Watt, Executive Director Community Services
G Spall, Executive Director Infrastructure Services
A Cooper, Head of Development Resources
A Hamilton, Head of Planning
A Jamieson, Head of Education
G Johnston, Head of Finance
C Medley, Head of Housing
J R Riise, Head of Legal and Administration
J Smith, Head of Organisational Development
K Adam, Solicitor
H Budge, Senior Education Officer
A Drummond-Hunt, Asset Services Manager
P Peterson, Personnel Officer
J Wylie, Community Safety Officer
A Cogle, Service Manager – Administration

Also:

Chief Inspector A Cowie, Northern Constabulary
Sgt Finlay McBeath, Northern Constabulary
M Gaston, Audit Scotland
G Neil, Audit Scotland

Chairperson

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

Circular

The circular calling the meeting was held as read.

Welcome

The Convener welcomed Mr Malcolm Gaston and Mr Gordon Neil from Audit Scotland, who were present to observe the Council meeting.

143/04 Mr A Laurenson

The Convener said that Councillors were very sad to have heard of the death of Mr Arthur Laurenson. He said that although he had not been a Councillor, Mr Laurenson had been a valuable member of the Shetland Development Trust, and had also made a valuable contribution to Shetland's development whilst in charge of the Lerwick Harbour Trust. The Convener said that Mr Laurenson's death had been sudden, and moved that the condolences of the Council be passed on to his family. The Council unanimously concurred.

144/04 **Shetland Islands Council – 15 September 2004**

Except as undernoted, the Council confirmed the minute of the Council held on 15 September, on the motion of Mr A J Cluness.

137/04 - Banking Services Contract 2005/06 to 2009/10

Mr T W Stove said that he had meant that the contract should ensure there was a “branch” contract. The Council agreed that the record be amended accordingly. The Head of Finance confirmed that the requirement for there to be a local branch was written into the contract documentation.

142/04 – Staffing Matter

The Council noted that this matter would be raised under exempt information at the end of the meeting.

145/04 **Members Attendance at External Meetings**

The following Members provided details of attendance at external meetings relating to Council business, further details of which can be obtained from the Members concerned:

Barbara Cheyne	-	Dounreay Local Liaison Committee
Josie Simpson	-	CPMR, 22-24 September, Stavanger
Brian Gregson	-	CoSLA Rural Affairs Committee

150/04 **Civic Government Licensing Sub-Committee – 23 September 2004**

The minute of the aforementioned meeting was confirmed, on the motion of Mr J P Nicolson.

151/04 **Marine Development Sub-Committee – 24 September 2004**

The minute of the aforementioned meeting was confirmed, on the motion of Mr F A Robertson.

152/04 **Planning Sub-Committee – 29 September 2004**

Except as undernoted, the Council confirmed the minute of the aforementioned meeting, on the motion of Mr F A Robertson.

12/04 – 3. 2004/256/PCD – Erect dwellinghouse, Northtown Road, Exnaboe, Virkie by Mr A J Steven and Ms V Laurenson

Capt G Mitchell advised that in putting forward his argument at the meeting, he had mentioned the fact that the site straddled the zone boundary, and was a reasonable site. He said this had not appeared in the minute, but was important for justification of the decision. Mr Mitchell asked that the minute be amended to include “Members gave weight to the fact that the site straddled the zone boundary, and was a reasonable site.” Mr F A

Robertson agreed to this amendment, and the Council concurred.

12/04 – 5. 2004/298/VCON – To vary condition no. 6 of planning permission ref 2003/006/PCD to provide septic tank and sea outfall in place of a connection to the mains sewer for a dwellinghouse at South Voxter, Cunningsburgh.

Mr T W Stove moved approval of the recommendation. The Council concurred.

On a general point, Mrs I J Hawkins said that an away-day for Planning matters had been postponed from October, and asked that a new date be set for November. The Head of Planning agreed to bring forward a date at the earliest opportunity.

153/04 **Harbour Board – 30 September 2004**

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

16/04 - Marine Electronic Maintenance Contract

The Head of Legal and Administration advised that specialist advice had been received in relation to the contract and, after discussion with the Chairperson of the Harbour Board, recommended that this item be referred back to the Board for it consider the advice received. Mr J Simpson agreed, and the Council concurred.

154/04 **Inter Island Ferries Board – 7 October 2004**

The Council confirmed the minute of the aforementioned meeting, on the motion of Mr B P Gregson.

155/04 **Long Term Financial Planning – Financial Prospects and Budget Strategies**

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

The Head of Finance said that the financial situation of the Council was now fairly well understood and quite simple. He said that the revenue accounts were in deficit and the Council had not managed to tackle this, and the profile was that this would increase over time. The Head of Finance said that this would have a detrimental effect on the Council's ability to invest in infrastructure or sustain services. He said that the Council had a fairly clear problem before it, and the report put forward a framework within which, in an inclusive basis, Service Managers were going to have to have to get on with it. The Head of Finance said that the Council had not found the means by which to make savings, and progress so far on Best Value reviews

were not going to deliver answers, and therefore a fresh focus was needed on revenue deficits.

Capt G G Mitchell referred to recommendations 9.2(ii), indicating that present policy was not to consider any transfer of housing for 2 years. In order to implement this recommendation fully, Capt Mitchell said that the Council had to take account of the fact that it had no Scottish housing standard that had to be met and this required a certain amount of expenditure, and that would have to be costed. He said that, when costed, this might severely limit the savings that can be made in this area on cutting down on expenditure. He added that if the situation was to become as bad as it might be, the answer may be to go for stock transfer.

The Head of Housing said that the SHQS would set the level required on housing stock, and it would then be for the Council to decide if it could afford that expenditure or not, then it would be duty bound. He added that this situation would not be known until the beginning of April.

The Convener acknowledged the points made, but said it did not affect the main thrust of this report.

Mrs B Cheyne said that this year the Council had had a list of cuts presented to it on 31 March, but unfortunately it was so critical that no decisions could be taken. She said she would like to see the Council avoiding that situation again, but was concerned at the timetable. Mrs Cheyne said the Council would have to work really hard to achieve the timetable set for February 2005, but it had to be careful and not rush into decisions without considering the detail, and she said that this coincided with her call for a seminar. Mrs Cheyne said that whilst she appreciated that there was a price to pay, she was happy to participate in making economies.

The Head of Finance said that he acknowledged the point about not rushing this exercise, adding that it would be unrealistic to realise all these reductions in one year. He said the Council had to recognise that it was embarking on a long term process that would take some time to realise.

Mr J P Nicolson referred to the conclusions on page 6, and referred to capital investments. He said that for some time in Shetland, the Council was creating infrastructure on the back of strong assurances that there was a commitment to running expenses into the foreseeable future. Mr Nicolson said that whilst there was value in the creation of capital investment and infrastructure, a thorough check should be made of the revenue implications for the Council.

Mr Nicolson went on to refer to funding received from the Scottish Executive for the Council to undertake various initiatives. He said that whilst the Executive was providing significant resources, these required the Council to recruit additional staff. Mr Nicolson said that he was of the view that the Council should be more selective, not only about whether or not follow the initiative, but to consider opportunities where allocations from Scottish Executive could be used to apply resources by existing staff.

The Head of Finance agreed with this latter point, saying that the Council should give these matters more clever consideration. Regarding capital investments, the Head of Finance agreed that the Council had to be mindful of the revenue costs, adding that the Capital Project Management Team was particularly careful on this matter. He said that capital investment did have the potential to give rise to more efficient delivery of services, which could reduce revenue costs and increase the efficiency of service delivery.

Mr L Angus said that the Head of Finance had consistently advised the Council of the consequences of continuing the current spending pattern relating to the Council's reserves. However, he referred to Appendix A of the report, and said that the principle costs related to staffing. Mr Angus said that whilst nobody wanted to throw Council employees out, these were the kind of saving that the Council should be looking at, over an agreed period, or the Council's funds were never going to balance. The Convener said that there were a whole range of possibilities that needed to be considered.

Mr L G Groat referred to the housing debt, and asked how much the Council had earned on the loan to the Housing Revenue Account, expressing concern that the costs were being passed on to tenants. The Head of Finance said that whilst some research would have to be done to give an accurate quantification, the Council reserves had been getting an appropriate return. He said that whilst it was quite right that the Council reserves should get that return, the loan could not have been borrowed cheaper anywhere else, and the Council had not profited from this, but had achieved a due return on capital.

Mr L G Groat suggested that the Review of Council Created Organisations Joint Working Group could be of assistance in considering the savings required by the Council, adding that it had worked very well during the current review, with very good input from Members. The Convener acknowledged this point, and suggested that it be considered after the seminar.

Mr A Inkster said that whilst he sometimes complained that Members do not get the full information to come to an informed view, he said that he could not complain in this instance as the Head of Finance had set out perfectly cleared in this report the situation, and proposed ways forward. Mr Inkster said that the onus was now on Councillors to take action, and the sooner the better, although he understood the frustrations that some officers were feeling.

Mr W H Manson said that this report had also been considered by the Executive Committee, and it had made a recommendation that Spokespersons should be involved earlier in process, discussing matters with Budget Responsible Officers. Accordingly, Mr W H Manson moved that the Council adopt the recommendations in the report, and to adopt the recommendation from the Executive Committee, namely to involve Spokespersons in the discussions with BROs. Mr L Angus seconded, and the Council concurred.

Mrs F B Grains said that she supported the decision to hold a seminar, but said she was not confident that Members would carry out the necessary savings. She agreed that Spokespersons should be involved, but that this should follow discussion at the seminar.

Mr B P Gregson said he also supported a seminar, and that this should be in private. Mr Gregson went on to express concern at the amount of time spent on best value reviews, which had so far had little effect on making savings. He said it was important that the Council sought Shetland solutions to Shetland problems.

156/04

Corporate Plan Monitoring

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

The Head of Organisational Development advised that the report brought forward a statement of progress and targets in relation to the Corporate Plan, and also discussed the issue of Member scrutiny on Member performance generally. The Council unanimously noted and endorsed the terms of the report.

157/04

Alcohol Byelaw

The Council considered a report by the Executive Director – Community Services (Appendix 3).

Mr B P Gregson said that he welcomed this report, adding that this issue had been rumbling on for many years. He said he welcomed the recommendations in the report, and moved the recommendations with enthusiasm. Mr E Knight seconded.

Mr W Tait said he had always been in favour of this byelaw. He said that it had been tried in other areas in the north of Scotland and the Western Isles, and had been a great success. Mr Tait said he felt that the byelaw would make Lerwick a better place for residents and for tourists.

Mr L G Groat advised that this matter would be placed before the next meeting of the Lerwick Port Authority, if the byelaw was approved, in order to ensure that similar arrangements were put in place for those areas within the jurisdiction of the Lerwick Port Authority.

Mr J Henry said that whilst he agreed with the terms of the report, he expressed concern that the byelaw would simply transfer the problem, and would not necessarily address issues such as teenage drinking.

Mr T W Stove referred to paragraph 2.3 of the report, and said that the Licensing Board had meetings with representatives of the local licensed trade. He said they had been extremely interested in the byelaw, and were unanimously supportive of it. Mr Stove said that this was one tool in a range of measures that would improve community safety within the centre of Lerwick.

Mr L Angus said he was not in support of this byelaw, as he did not believe the focus was right. He said that Lerwick Community Council had been repeatedly told by the Police that it simply did not have the manpower to ensure high visibility policing in the centre of Lerwick. Mr Angus said it was quite clear that the problems related to anti-social behaviour but this byelaw would simply criminalise a whole section of people who were not acting anti-socially. For example, Mr Angus said that this byelaw would criminalise anyone having a glass of wine with a barbecue at the Sands of Sound, or having a tin of beer when launching a boat. He said that the solution to anti-social behaviour would not be solved by this byelaw, and reiterated his decision not to support its introduction. Mr Angus added that he hoped that if, during the review after two years, it was not found to be having an impact on the problems in the centre of Lerwick, that it would be repealed.

Mr W N Stove said he had some sympathy with the comments made by Mr Angus. He said he had not been in favour of this initially, as it had not extended to the whole of Lerwick. Mr Stove said his support for the byelaw had only been gained by a

commitment to increased policing in Lerwick, and asked if the Chief Inspector could confirm that this was one tool being used towards improving community safety, which would be extended to installing CCTV, as well as increased policing.

Chief Inspector A Cowie thanked the Council for inviting him to this meeting, and said he was grateful for the opportunity of having the Council to consider the matter. He said that he was also Chairman of the Community Safety Partnership, and confirmed that this matter had been widely researched and consulted on, and he believed that this byelaw would make Lerwick a safer place for people to live in, and for visitors to enjoy. Chief Inspector Cowie went on to say that this was indeed only one tool which would be put in place to make Lerwick a more attractive and safer place. He said that Lerwick was already much safer than other places, but the standards in Shetland were much higher. He went on to say that CCTV was being looked at, and he was confident that a report would be presented to Council in the new year giving costings and options. Chief Inspector Cowie said that the Police had been working hard to increase policing, and said that within 18 months the Police had moved from 33 officers, to 40 full time officers. He said that 7 officers from the Special Constabulary, were now undergoing training and other induction procedures, and by December 2005, the Special Constabulary would increase to 13. He concluded by saying that these measures would ensure a significant increase in Police presence, and along with the byelaw and assistance from licensees, would improve community safety within Lerwick.

158/04 **Return of Community Council Funds: Lerwick Community Council**

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

Mr A J Cluness moved that the Council adopt recommendation 5a), namely to return the funds to Lerwick Community Council in order to maintain benches and play areas in Lerwick. Mr Cluness said his reason for moving this recommendation was that it was simply due to a technical problem that the surplus funds were not allocated sooner. Mr L G Groat seconded.

159/04 **Redundancy Policy**

The Council considered a report by the Personnel Manager (Appendix 5).

Mr W N Stove said that the policy had been well debated at the Employees JCC and moved that the recommendation be adopted. Mr J P Nicolson seconded.

Mr L G Groat asked that this Policy, and the following Redeployment Policy, be made available to staff of the various Trusts that may be affected by the results of the Trusts Working Group, in the event that these policies may be of advantage to those employees. The Council agreed.

Mr L Angus referred to the employment of temporary staff, and the number of years some staff had remained in temporary positions, particularly in the area of Special Needs Education, and asked that this issue be looked into. The Personnel Officer advised that the issue of temporary staffing, particularly long term temporary employment, was to be addressed by Personnel Services. He said that some appointments were Scottish Executive funded posts, and were ring fenced and time bound. However, he said that there was impending legislation that gave temporary staff the right to request permanent employment, and the concern was the possible effect this could have on the Council's establishment. He advised that this matter would be brought forward to the Executive Management Team for consideration and direction, possibly through amendment of Council policy.

160/04

Redeployment Policy

The Council considered a report by the Personnel Manager (Appendix 6) and adopted the recommendation contained therein, on the motion of Mr W N Stove, seconded by Mr B P Gregson.

161/04

Busta Estate – Preliminary Proposals regarding a possible extension of the Sullom Quarry

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

Mr W H Manson said that if any planning application was submitted for this quarry extension then, as it was Council land, it would be submitted as a Notice of Intention to Develop. Whilst this could be of some advantage to the Council, the decision would probably have to be determined by the Scottish Executive. Mr Manson said that whilst the report was simply asking the Council to note the position, he wished to introduce some ground rules for the Council to adopt if it was to consider approving a major quarrying development. He said he believed it was important for the Council and the Shetland public to be aware of who the individuals or companies were who were

involved in any such developments, and ensuring that they had the means at their disposal to carry forward their proposals to development.

In this regard, Mr W H Manson moved:

1. Any entity approaching Shetland Islands Council seeking permission to exploit mineral rights controlled by the Council, whether directly, through Busta or Burra Estate, or through other subsidiaries, shall be the subject of such "due diligence" examination as is deemed necessary in advance of any detailed discussions. In particular, it shall disclose its full list of owners, the number of shares held by each owner, and who/what is the ultimate beneficial owner of each block of shares. The facts regarding its ownership shall be available, not only to the Council, but to the Shetland public.
2. Council policy in respect of any future development on its estates that involves mineral exploitation shall be leasing rather than sale of the ground in question.
3. In the event of any change of ownership, or of beneficial ownership, of a holder of a lease or similar permit to exploit mineral rights controlled by the Council, the lease or permit shall be suspended until the new owner(s) accept all planning conditions and all conditions attaching to leases or permits from the Council.

Mr A Inkster seconded, and the Council concurred.

162/04

Proposed Environmental Assessment (Scotland) Bill

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

After hearing the Head of Planning summarise the terms of the report and response to the consultation, Mrs I J Hawkins said that this Bill would go beyond the Directive, and expressed concern regarding the financial implications for the Council, and the amount of staff time that will be involved, despite the intention to reduce bureaucracy and the burden on Councils.

Members agreed, and on the motion of Mrs I J Hawkins, seconded by Mr B P Gregson, the Council approved the recommendations contained in the report, in addition to seeking confirmation as to the funding status for administration of the process.

In response to questions, the Head of Planning confirmed said it was not yet clear whether an overall project strategy which

included an Environmental Impact Assessment, would reduce the amount of work required on individual projects at a later stage, or whether a new Assessment would have to be started from scratch for each element of the project. The Head of Planning said that he would try and get an answer to this for the next Council or Committee meeting.

163/04

Local Government Boundary Commission for Scotland – Review of Boundaries – Progress Report

The Council considered a report by the Head of Legal and Administration (Appendix 9).

The Head of Legal and Administration advised that this was the first opportunity of bringing this matter to the Council since the Local Government Boundary Commission [LGBC] had commenced its review. He said that a meeting with representatives from the LGBC had been well attended by Members, and this was an opportunity to update other Members who had been unable to attend. The Head of Legal and Administration said that the only worrying aspect of the review was the reference back again to the legislative context on parity of numbers. However, he said the LGBC was duty bound to put forward an explanation if they do not put forward proposals which reflect existing ward boundaries. The Head of Legal and Administration went on to say that an officer group had been brought together to consider the matter and, whilst it was important to note that these were very early days into the review, the group had come up with some ideas in relation to multi-member wards. He said that the report was not asking the Council to endorse any proposals at this time, but he would welcome any suggestions or concerns that could be taken forward.

Mrs I J Hawkins said that she had attended the meeting with the LGBC representatives, and had found it very refreshing having them there and explaining the process. She said that whilst she did not believe in proportional representation, when it came to considering the areas to be looked at, she was concerned about the aspect of parity of numbers, and hoped that the review would not lead to splitting of existing communities, such as the current boundaries had done at the last review.

Mr W H Manson pointed out that the electoral wards referred to in the “North Mainland” area, should refer to “Northmavine” rather than “North Mainland”. The Head of Legal and Administration accepted this error.

Mr F A Robertson said that he had also found the meeting with the LGBC representatives refreshing, but said he was not

certain on the question of how this would affect Community Council boundaries, and the current dilemma for Members having to attend more than one Community Council meeting.

The Head of Legal and Administration said that at this stage he could not be definitive, but the Council would have to devise protocols as to the constituency business to be conducted by Members of three or four member wards. In addition, he said that after some time it may be that sensible ideas come to the fore regarding Community Council boundaries, but more importantly it was likely that this review would undo some of the wrongs created by the last boundary review thereby reinforcing the boundaries of Community Councils, but this remained to be seen.

Mr W N Stove said he had been impressed with the presentation from the LGBC. Looking at the initial proposal, Mr Stove said that the Council was looking at wards that would represent around 2500 electorate. He said that this was compared to some more urban areas, where the electorate to be represented by three or four members could be around 20,000. In this regard, he said that the Shetland Islands Council could probably operate with less than 16 Councillors, but the amount of work that Councillors do, including Trust representation, would be better served by three or four members representing around 2500.

Mr B P Gregson said he had also found the meeting with the LGBC as very useful, and moved that the Council adopt the recommendations in the report, but in addition, that this matter be put to an early meeting of the ASCC/SIC Joint Liaison Group. Mr W H Manson seconded, adding that he agreed that consultation with Community Councils should begin at the earliest opportunity in order to ensure they were part of the process.

164/04

Scheme of Members' Approved Duties

The Council considered a report by the Head of Legal and Administration (Appendix 10).

Mr J P Nicolson asked that the Chairperson of Sub-Committees also be included in the list of SRAs detailed in Section 4.2.

The recommendations in the report were adopted on the motion of Mr A J Cluness, seconded by Mrs F B Grains.

In response to questions, the Head of Legal and Administration agreed to provide clarification to Members regarding their entitlement to attend Schools that were not situated within their

Ward area, and for attendance at the Anderson High School, the catchment area of which could effectively be considered to cover the whole of Shetland.

165/04 **Scheme of Delegations – Progress Report**

The Council noted a report by the Head of Legal and Administration (Appendix 11).

166/04 **Complaints Received by the Ombudsman**

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

167/04 **Schedule of Meetings 2005**

The Council considered a report by the Head of Legal and Administration (Appendix 13) and adopted the recommendation contained therein, on the motion of Mr J P Nicolson, seconded by Mrs F B Grains.