

Shetland Islands Council  
15 December 2004 Public Minutes

Shetland Islands Council  
Council Chamber, Town Hall, Lerwick  
Tuesday 15 December 2004 at 10.30 a.m.

Present:

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

In attendance (Officers):

M Goodlad, Chief Executive  
G Spall, Executive Director Infrastructure Services  
J Watt, Executive Director Community Services  
S Cooper, Head of Environment Services  
D Irvine, Head of Business Development  
G Johnston, Head of Finance  
J R Riise, Head of Legal and Administration  
J Smith, Head of Organisational Development  
D Bell, Personnel Manager  
M Craigie, Capital Projects Unit Manager  
J Emptage, Cleansing Services Manager  
C Ferguson, Community Care Manager  
A Hamilton, Head of Planning  
M Holmes, Coastal Zone Manager  
I Millar, Projects Manager  
A Cogle, Service Manager – Administration

Also:

H A Sutherland, General Manager – Shetland Charitable Trust

**Chairperson**

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

**Circular**

The circular calling the meeting was held as read.

172/04 **Shetland Islands Council – 3 November 2004**

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

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

Capt G G Mitchell suggested that the second sentence of the third paragraph be amended to read “In order to implement this recommendation fully, Capt Mitchell said that the Council had to take account of the fact that a new Scottish Housing Quality Standard had to be met, and that this required a certain amount of expenditure that would need to be costed.”

162/04 – Proposed Environmental Assessment (Scotland) Bill

The Head of Planning advised that a report would be issued to the next meeting of the Infrastructure Committee.

170/04 – SIC – 15 September 2004 – Staffing Matter

The Head of Legal and Administration advised that he was required to raise this item in private later in the meeting.

173/04 **Shetland Islands Council – 7 December 2004**

The Council confirmed the minute of the aforementioned meeting, on the motion of Mr A J Cluness.

174/04 **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:

Cllr G Mitchell	-	HITRANS– Inverness
W A Ratter	-	Renewables event - London
W A Ratter	-	COSLA Convention – Aberdeen
F B Grains		
J C Irvine		
B Cheyne	-	Fund Managers - Edinburgh & London
W H Manson		
A J Cluness	-	Northern Maritime Corridor - Bergen
F A Robertson	-	Cosla Economic Planning & Development Executive Group - Edinburgh

175/04 **Petitions**

The Convener advised Members of Petitions received by the Council, as follows:

“A Petition has been received formally by the Council, with 1014 signatories asking that the Council be made aware of their feelings relating to disciplinary action undertaken towards an individual employee of the Council.

A copy of the Petition is available for viewing by Members.

However, the Council is strongly advised that, in order to preserve Council policy and practice, that this personnel matter must not be

considered or discussed by Members in this forum, in view of compromising the individual's rights and interests.

I am advised that a reivew of the process has not shown any deficiencies. I am also informed that there has been a resolution of the situation to the satisfaction of the employee concerned and that puts an end to this.

Also, a Petition has been received from 6 residents of Cunningsburgh, asking the Council for assistance with the damage done to their property during the flash floods on 19<sup>th</sup> August this year.

A copy of the Petition is available for viewing by Members.

The Petitioners' refer to the assistance that was made available in previous years to residents of Sandwick and Cunningsburgh affected by the 2003 slides and floods.

The original scheme is coming to an end, and as part of a report to the council, the Head of Legal and Administration has offered to report also on the circumstances of this most recent event including the issue referred to in the Petition. The report will be presented to the Council in February."

The Council noted the Petitions and information provided.

176/04 **Infrastructure Committee – 30 November 2004**

Except as undernoted, and with the further exception that item 63/04 would be considered as a separate item later on the agenda, the Council approved the minute of the aforementioned meeting, on the motion of Mr J C Irvine.

**63/04 – Community Council Skip Service**

Mrs I J Hawkins referred to the second paragraph on page 2, and said that this should read "... the Committee should **not be making** any decisions today." Mr J C Irvine agreed, and the Council concurred.

177/04 **Services Committee – 2 December 2004**

The minute of the aforementioned meeting was confirmed, on the motion of Mrs F B Grains.

**68/04 – Comunity Health Partnership (CHP) – Draft Scheme of Establishment**

Mr L Angus referred to the last paragraph on page 2, and advised that he had made this statement, but that he had strongly related his view that a mechanism should be established.

71/04 – Mental Health (Care and Treatment) Scotland Act 2003

Mr L Angus referred to fifth paragraph, and said that his remarks had been in relation to psychiatric services, not psychological services.

178/04 **Executive Committee – 7 December 2004**

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

Members Attendance at External Meetings

Mr L Angus referred to the second sentence, fifth line, and said that he had advised that the Highlands and Islands region was likely to lose out on EU structural funds, as opposed to UK funds. The Convener agreed, and the Council concurred.

Min. Ref. 119/04 – Investment in Local Economic Development – A Status and Policy Report

In response to a question from Mr A Inkster, the Chief Executive referred to paragraph 3.1 of the report, and confirmed that the £60m stated for SLAP, was amended to £55m.

179/04 **Civic Government Licensing Sub-Committee – 27 October 2004**

The Council approved the minute of the aforementioned meeting, on the motion of Mr J P Nicolson.

180/04 **Civic Government Licensing Sub-Committee – 7 December 2004**

Except as undernoted, the Council approved the minute of the aforementioned meeting, on the motion of Mr J P Nicolson.

10/04 – Taxi Stances – Victoria Pier

Mr J P Nicolson advised that the Sub-Committee had recommended that the Council approve a relaxation of the Policy relating to funding the provision of taxi stances on private land, for the next financial year, in order to permit allocation of resources which would ensure that the facility was maintained for the Island Games in July 2005, and to review the Policy again after a year. Mr J C Irvine, however, expressed some concern regarding the arrangement with LPA and the STOA, and asked that the matter be referred back to the Sub-Committee for further consideration. Members noted that additional arrangements were likely to be made for the Island Games, and Mr J P Nicolson agreed to the suggestion to defer, and the Council concurred.

181/04 **Marine Development Sub-Committee – 12 November 2004**

The minute of the aforementioned meeting was confirmed, on the motion of Mr W H Manson.

182/04     **Marine Development Sub-Committee – 26 November 2004**

The minute of the aforementioned meeting was confirmed, on the motion of Mr W H Manson.

Mr W H Manson said that, resulting from discussions with the SFA, there was a further meeting of the Marine Development Sub-Committee yesterday. The meeting had considered a report proposing consultation on the licensing policy. He added that the Sub-Committee had been happy with the proposals contained in the report, and in order to speed up the process, it was now recommended that the proposals be sent to the SFA now, for a response by early January, and if there were no significant changes, then it was recommended to proceed directly to consultation, without seeking approval from the Council in February. The Council unanimously agreed, noting that the final response from the consultation would be reported to the Council for consideration.

183/04     **Planning Sub-Committee – 10 November 2004**

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

Min. Ref. 13/04 – (2) 2004/46/PCD – Erect 15 metre (base to hub) wind turbine, overall height 19.4 metres, Sandwick Social Club, Central, Sandwick by Sandwick Social Club

It was noted that consideration was being given to moving the generator within the same site, and the Council agreed, on the motion of Mr W A Ratter, seconded by Mr L Angus, to approve the application, but that consideration be given to moving the generator within the application site, which may satisfy some of the objections lodged.

Min. Ref. 13/04 – (3) 2004/271/PCO – Erect three dwellinghouses (in outline, adjacent to Brig House, Weisdale by Mr M Thompson

The Head of Planning advised that Members would be informed in early course regarding the proposed date for a site visit.

Min. Ref. - (10) 2004/363/PCD – Erect dwellinghouse, Smuggins, East Burra by Mr and Mrs Mackie

Mr F A Robertson advised that, unfortunately, some information had been overlooked by Planning officials, and he recommended that delegated authority be given to the Sub-Committee to deal with this matter at its meeting on 14 January. Mr J P Nicolson seconded, and the Council concurred.

184/04     **Harbour Board – 11 November 2004**

The minute of the aforementioned meeting was approved on the motion of Mr J G Simpson.

185/04     **Inter Islands Ferries Board – 12 November 2004**

The minute of the aforementioned meeting was approved on the motion of Mr B P Gregson.

186/04     **Inter Islands Ferries Board – 22 November 2004**

The minute of the aforementioned meeting was approved on the motion of Mr B P Gregson.

187/04     **Inter Islands Ferries Board – 30 November 2004**

Except as undernoted, the minute of the aforementioned meeting was approved on the motion of Mr B P Gregson.

Min. Ref. 18/04 – Management of Ferry Services

Mr J G Simpson said he was not convinced that the proposal was using personnel in the best way, and moved that the Council do not approve the recommendations. Mr J C Irvine seconded.

Mr B P Gregson said that he disagreed with the conclusion made by Mr Simpson, and said that there were very clear indications about the need for this additional post. Mr Gregson said that the Board had considered the recommendations carefully, and commended the recommendation of the Board to the Council. He added that it had to be remembered that the Council was the ultimate owner of the ferry service, and had to ensure safe practices, as provided for within the ISM Code

Capt G Mitchell agreed that it was necessary to ensure compliance with the appropriate safety codes and the Council was obliged to do so. He said that in this regard it was necessary to have appropriate personnel in place to ensure that the crews were equipped to deal with the new environment, and supported the recommendation of the Board.

Mr L Angus gave notice of a further amendment.

Mr Simpson said that he was aware of the safety implications, but was not convinced that the proposals were the correct way to proceed, and that the structure should be re-examined from the top down.

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

Amendment (J G Simpson)	11
Motion (B P Gregson)	9

Mr L Angus withdrew his notice of further amendment.

**On the motion of Mr L G Groat, seconded by Mr W Tait, the Council resolved, in terms of the relevant legislation, to hold**

**debate on the following report in public, but that Appendix 3 to the report, remain exempt.**

188/04     **Integrated Management Arrangements for Care homes and Related Services**

The Council considered a report by the General Manager Shetland Charitable Trust (Appendix 1A).

Mr L G Groat said that the Working Group had been given a specific task to look at Council sponsored trusts with a view to looking at the management structure, but not looking at staffing at the front end of service provision. With regard to the Shetland Welfare Trust (SWT) in particular, Mr Groat said that the care services provided by both the SWT and the SIC had two management systems in place, and consideration was given by the Group to the amalgamation of the two systems, but to ensure the protection of staff pay and conditions. Mr Groat said that various meetings were held with staff and with representatives, carers, or relatives of those receiving the service. He said that, also in line with the Council decision, an independent assessor was appointed, who had indicated that her report would not be recommending whether or not the proposals made by the working group should go ahead, but whether they would have any impact on the service provision. Mr Groat summarised some of the points made in the assessor's report. Mr Groat went on to say that the proposals from the SWT had been considered by the Group, and subsequently by the Council, but the legal advice had been that if that proposal had been accepted, the service would have to go out to tender, and this was something that the Working Group, and the Council, did not want to do, and the status quo was not an option. Mr Groat concluded by saying that the recommendations from the Working Group were not the same as those stated in the report, and accordingly moved amended recommendations, as detailed in Appendix 1B, to create a single management structure. Mrs I J Hawkins seconded.

Mr B P Gregson expressed his concern at the standard of consultation and communication, and in particular, he criticised the way in which meetings at care homes had been conducted. He said he had attended all the meetings as an observer and said that he found the manner in which they had been conducted entirely reprehensible. Regarding the report, Mr Gregson said that the bottom line had been promoted as saving £250k, and he questioned if the upheaval this was causing was worth it. Mr Gregson said that he was personally very grateful for the service of the SWT, and suggested that people could make gift aid donations of £10 a month to the SWT which would allow tax to be reclaimed, and if enough people contributed, this would allow the SWT to raise an amount equal to the savings required and reduce the burden on the SCT. Mr Gregson went on to say that there was

no doubt that the SWT provided excellent care services, and that continuance in its current form would receive public support. Accordingly, Mr Gregson moved as an amendment the terms of Appendix 1C, to reject the Working Group's proposal and to identify alternative sources of funding to enable the SWT to continue in terms of the Trust Deed. Mr W Tait seconded.

During the debate which followed, Members acknowledged that what had been identified had been the duplication of management and overheads, and that there was no concern regarding the level of care provided or the homes involved. Some Members expressed concern at the possible cost to the Council, although it was recognised that overall savings would be achieved by the SCT.

After further discussion, and on the motion of Mr C B Eunson, the Council resolved to have a roll call vote, with 19 votes for, and none against.

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

L G Groat	Motion
I J Hawkins	Motion
J Henry	Motion
A Inkster	Motion
J C Irvine	Motion
E J Knight	Motion
W H Manson	Motion
G G Mitchell	Motion
J P Nicolson	Motion
W A Ratter	Motion
F A Robertson	Amendment
J G Simpson	Motion
W N Stove	Amendment
T W Stove	Amendment
W Tait	Amendment
L Angus	Motion
B Cheyne	Motion
A J Cluness	Amendment
C B Eunson	Amendment
R G Feather	Amendment
F B Grains	Motion
B P Gregson	Amendment
Amendment	8
Motion	14

Accordingly, the motion by Mr Groat was declared the finding of the meeting.



The Council adjourned at 12.50 p.m.

The Council re-convened at 1.45 p.m.

Present:

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

Apologies

F B Grains	C B Eunson
W N Stove	

In attendance (Officers):

M Goodlad, Chief Executive  
G Spall, Executive Director Infrastructure Services  
S Cooper, Head of Environment Services  
A Hamilton, Head of Planning  
G Johnston, Head of Finance  
D Irvine, Head of Business Development  
J R Riise, Head of Legal and Administration  
J Smith, Head of Organisational Development  
M Craigie, Capital Projects Unit Manager  
J Emptage, Cleansing Services Manager  
M Holmes, Coastal Zone Manager  
I Millar, Projects Manager  
A Cogle, Service Manager – Administration

Also:

N Grant, General Manger – Shetland Development Trust

**Chairperson**

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

189/04     **Infrastructure Committee – 30 November 2004 – Community Council Skip Service**

The Council considered the recommendation from the Infrastructure Committee, and a report by the Head of Legal and Administration (Appendix 2A).

Mr J C Irvine read from an e-mail received from the Council's Insurers, which he said would ensure that the service could continue (Appendix 2B). Mr Irvine moved the recommendation in the report, and stated that the Working Group would continue and consult with Community Councils. Mr B P Gregson seconded, and the Council concurred.

190/04     **General Fund Revenue Management Accounts 2004/05 for the Period 1 April 2004 to 30 September 2004**

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

191/04     **Shetland Development Trust – Activity Report for 6 Month Period Ending 30 September 2004**

The Council considered a report by the General Manager Shetland Development Trust (Appendix 4).

Mr N Grant, General Manager of the Shetland Development Trust [SDT], provided Members with a Powerpoint presentation. During his presentation, Mr Grant stated that investments in the fishing sector consisted essentially of loans into fishing boats, was struggling at the moment. He said this had been addressed in some cases by the restructuring of debts. Mr Grant also referred to the quota income, which had increased since last year, and was the year in which an income had been received. He went on to refer to the investments in other sectors, illustrated by the graphs shown in the report, highlighting in particular the benefit of the links between investments in tourism and transport, predominantly through investment in the Smyril Line.

In response to a question from Mr L G Groat, Mr Grant said that there had been some investment in inshore boats, but the larger whitefish boats were struggling, and there was no mechanism to assist those boats at this time. Mr W H Manson said that the original decision to obtain quota had been to get people back into the industry, and if the fishing sector was to improve, the quotas would be of assistance. Mr J Simpson said that improvement was needed in the modernisation of the fishing fleet.

Mr R G Feather enquired as to the investment policy on rural shops. Mr N Grant said that the SDT had several investments in rural shops, and whilst there was no particular policy for encouraging them, if the business made sense it would be looked at.

Mr N Grant went on to summarise the remainder of the report, referring to the investments by type, and the number of jobs created and sustained.

Mrs I J Hawkins said it was very useful to have this report in clear terms. She went on to ask what effect the loss of jobs at SAGA Seafoods and Westside Fishermen would have. Mr Grant said that

this would be covered within the provision or money that has already been written off.

The Council otherwise noted the terms of the report. The Convener thanked Mr Grant for his presentation.

192/04 **Investment in Local Economic Development – A Status and Policy Report**

The Council considered a report by the Chief Executive (Appendix 5).

Mr W A Ratter said that he welcomed this report. He said that at the stage of the economy in Shetland now, this was a good time to look at what is being done, and what the Council's policies were. Mr Ratter said that the recommendations in this report took the Council forward in a positive way, and he moved that the Council adopt the recommendations in paragraphs 9.1 and 9.2.

Mr J P Nicolson said that he was happy to see this as a beginning of a process. He went on to say that more political input was needed from Council in terms of investment monitoring. In this regard, Mr Nicolson suggested that a Working Group be set up to take the proposals forward with the Chief Executive. Mr Ratter agreed, and Mr Nicolson seconded the motion, with this addition.

Considerable discussion took place regarding the appropriate level of political influence which should be made in terms of investments by the SDT, and questions were raised about expectations regarding the standard of reporting and monitoring. Some Members questioned whether the current standard of reporting and reporting was sufficient, not only for the Council, but for the public. Whilst it was noted that the SDT now had in place appropriate financial and investment monitoring arrangements, and Members were generally reassured by this, it was suggested that there was scope for improvement in terms of clear strategy, targets and monitoring of performance by the Council. After further discussion, the Council agreed to accept the motion, and in terms of recommendation 9.2, to discuss those issues raised today at the next meeting.

194/04 **Freedom of Information Requests – Proposed Fee Structure**

The Council considered a report by the Head of Legal and Administration (Appendix 7) and adopted the recommendations contained therein, on the motion of Mr A J Cluness, seconded by Mr L Angus.

195/04     **Establishing a Single Economic Development Forum for Shetland**

The Council considered a report by the Head of Business Development (Appendix 8) and adopted the recommendation contained therein, on the motion of Mr L Angus, seconded by Mr W Tait.

196/04     **Revision to Scheme of Delegation for Planning**

The Council considered a report by the Head of Planning (Appendix 9) and adopted the recommendations contained therein, on the motion of Mr W Tait, seconded by Mrs I J Hawkins.

197/04     **Consultation on Extending Planning Controls to Marine Fish Farming**

The Council considered a report by the Coastal Zone Manager (Appendix 10).

Whilst the Council was in general agreement with the terms of the response, Members expressed concern regarding the need to ensure that the Council reserved its position with regard to the ZCC Act. In particular, Members were concerned that there had been no indication as to what amendments were being proposed, and assumed that this would only be known after the end of the consultation period on 15 January 2005. The Council noted that the Crown Estate Commissioners had confirmed that the provisions of the ZCC Act would continue to take precedence regarding leasing of the seabed. The Head of Legal and Administration confirmed that a meeting with the Scottish Executive on 8 December had resulted in the Executive indicating their commitment to share and consider information, before any proposals are made.

The Council otherwise adopted the recommendation in the report, on the motion of Mr W H Manson, seconded by Mr B P Gregson.

198/04     **Inclusion of Craft Operatives in the Single Status Agreement**

The Council considered a report by the Executive Director Infrastructure Services (Appendix 11) and adopted the recommendation contained therein, on the motion of Mr E Knight, seconded by Mr J C Irvine.

199/04     **Employee Consultation Review**

The Council considered a report by the Head of Organisational Development (Appendix 12) and adopted the recommendation contained therein, on the motion of Mr W N Stove, seconded by Mr J C Irvine.

200/04     **Implementation of Ill Health Capability Policy**

The Council considered a report by the Personnel Manager (Appendix 13) and adopted the recommendation contained therein, on the motion of Mr W N Stove, seconded by Mr E Knight.

Mr L Angus expressed concern regarding provision of the Occupational Health Service with regard to the level of referrals and waiting times. The Chief Executive advised that the current contract ran out shortly and was being reviewed as part of the procurement process.

201/04     **Possible New Investment in Smyril Line/North Atlantic Lines**

The Council considered a report by the Chief Executive. The Council noted that the debate on this report was being held in public and whilst the report had been classed exempt by the Executive Committee, a revised report had been produced for the public and press (Appendix 14).

During discussion, Members agreed that the proposal would bring clear benefits to Shetland in terms of transport and tourism links, and the resulting return for the local economy. Accordingly, the Council adopted the recommendations in the report, and as recommended by the Executive Committee, on the motion of Capt G G Mitchell, seconded by Mr L Angus.

In response to questions from Mr A Inkster, the Chief Executive confirmed that his position as a Director of Smyril Line held no conflict with regard to his position as Chief Executive, and was satisfied with regard to the legality of his position. He further confirmed that his appointment as a Director was in a personal capacity, and not as Chief Executive of the Council.

**In order to avoid the possible disclosure of exempt information, the Council resolved, on the motion of Mr A J Cluness, seconded by Mr W N Stove, in terms of the relevant legislation, to exclude the public during consideration of the following items of business.**

203/04     **Viking Energy Ltd**

The Council considered a report by the Principal Officer – Business Technical (Appendix 15) and adopted the recommendations contained therein, on the motion of Mr J P Nicolson, seconded by Mrs I J Hawkins.

202/04     **Disposal of Old South Nesting School**

At the request of the Member for the Area, Mr J C Irvine, the Council agreed to defer this item for one cycle, to allow time for

further consultation, and agreed that the report be written in a way which would allow consideration of the matter in public.

204/04     **Marine Electronic Maintenance Contract**

The Council considered a report by the Port Engineer, Ports and Harbours Operations (Appendix 16) and adopted the recommendations contained therein, on the motion of Mr J Simpson, seconded by Capt G G Mitchell.

205/04     **Employees Joint Consultative Committee – 9 November 2004**

The Council noted the minute of the aforementioned meeting.

206/04     **Shetland Islands Council –3 November 2004 – Min. Ref. 170/04 – Staffing Matter**

The Head of Legal and Administration updated Members on the track of events that had brought this matter to a conclusion. Members noted the position.

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A J Cluness  
Convener