



Shetland Islands Council

MINUTE

A

Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 13 September 2006 at 10.30 a.m.

Present:

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

Apologies

L Angus	B Cheyne
J C Irvine	G G Mitchell
W Tait	

In attendance (Officers):

M Goodlad, Chief Executive
B Doughty, Executive Director – Education and Social Care
G Spall, Executive Director – Infrastructure Services
H Budge, Head of Schools
A Hamilton, Senior Advisory - Marketing
G Johnston, Head of Finance
J Smith, Head of Organisational Development
C Medley, Head of Housing/Capital Programme Service
J Riise, Head of Legal and Administration
S Crook, Library and Information Services Manager
K Adam, Senior Solicitor
A Drummond-Hunt, Asset and Properties Manager
B Edwards, Operations Manager - Ports
M Holmes, Coastal Zone Manager
I Millar, Projects Manager
L Gair, Committee Officer
A Cogle, Service Manager – Administration

Also

N Grant, General Manager – Shetland Development Trust
W Goudie, Project Manager – Shetland Development Trust

Chairperson

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

Circular

The circular calling the meeting was held as read.

127/06

Shetland Islands Council – 28 June 2006

Subject to the following, the minute of meeting held on 28 June 2006 was confirmed, on the motion of Mr A J Cluness.

Min. Ref. 119/06 – Community Council Grants 2006/07

Mr W H Manson referred to page 6, and said that this should read "...they spent a huge proportion of their resources on unadopted roads grants..".

Min. Ref. 121/06 – Papa Stour

Mr W H Manson advised that the decision by the Council to re-open the Papa Stour School would not be implemented, as the family are no longer on the island, so the School would remain mothballed. He added that the one remaining school age child on the island was being home educated.

In response to a question from Mr W A Ratter, Mr Manson said that if the demand arose again for the school to be opened, consideration could be given to the possible provision of a scheduled ferry service to the mainland, rather than re-opening the School again. However, he added that all the resource implications would have to be taken into account.

128/06

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:

- | | | |
|-------------|---|---|
| W N Stove | - | CoSLA Personnel Executive Group |
| A J Cluness | - | CoSLA Leaders Group
Highlands and Islands Conveners' Group
Western Isles –v- Shetland Football match -
Stornoway |
| W H Manson | - | COSLA/Scottish Executive re Youth Champions
– Edinburgh |

129/06

Petitions

The Council noted a petition with 245 signatures which stated: "Save our Schools. Unst Community Council is supporting Baltasound and Uyeasound School Boards in seeking to keep Baltasound Secondary and Uyeasound Primary Schools open. Huge efforts are being made to re-generate the Unst economy. Even to consider closures at this time sends the wrong message to businesses and families considering expanding or relocating in Unst. If want the schools to stay open, please sign below. The petition will then be sent to the Shetland Islands Council."

Mr B P Gregson said that recommendations were before Council today with regard to the timetable for consideration of closure of Baltasound and Uyeasound. He said that this consideration would not take place until towards the end of 2010, which would provide more opportunity for the communities to look at the demographic profile of those areas.

130/06 **Infrastructure Committee – 29 August 2006**

Subject to the following, the minute of the aforementioned meeting was confirmed, on the motion of Mr A Inkster.

Min. Ref. 50/06 – Building at Risk

The Council noted that further information on this matter was available and would be discussed under exempt business at the end of the meeting.

131/06 **Services Committee – 31 August 2006**

Subject to the following, the minute of the aforementioned meeting was confirmed, on the motion of Mrs F B Grains.

Min. Ref. 52/06 – Library Provision in Scalloway

Mrs I J Hawkins advised that references made to the level of support provided to Scalloway had been made at the end of her statement, and not the beginning.

Min. Ref. 53/06 – School Estate Management

The Council noted a further report had been submitted, which set out the timetable for the review process, as recommended by the Services Committee (Appendix A).

Mr J P Nicolson said that he had read the HMI follow up reports on the North Isles schools, and said that the educational aspects of schools were best evaluated by HMI. Mr Nicolson said this put a question mark over the educational component of the review process as the objectivity with which HMI reports were conducted could not be delivered locally. He said that if what was left to be considered was cost and sustainability, this had to include the financial aspects of the education service across the board, including evening classes. Accordingly, Mr Nicolson moved as an amendment that the Council set aside the review, acknowledge the levels of satisfaction stated in the HMI reports, and their thoroughness, and undertake a review of the Education service overall.

Mr W A Ratter said that there was no doubt that HMI were an extremely professional and capable body, but their reports related only to a snapshot in time and was not a complete basis on which the Council should be managing its schools, or the education service. He said that demographics and circumstances changed, and HMI reports did not take account of those circumstances, nor future projections with regard to management, and it was important that the Council looked at the broader picture.

Mr J G Simpson seconded the motion by Mr Nicolson, agreeing that the broader picture of the Education service had to be looked at.

Mr W H Manson said that Mr Nicolson should rest assured that the Schools Service would be considered. He said that the proposal was for the reviews to take place over a 4 year period. Mr Manson added that the Schools Service had found a 5% saving in the current year, and that had been achieved by reviewing the whole Schools service, and there was no doubt that approach would continue. He agreed that the cost of schools had to be taken account of, but this would not be the only factor. Mr Manson said that savings would not be sought if they were damaging to the education of pupils, and whilst the review process included a comprehensive list of factors, other grounds could be added if necessary. Mr Manson said that there would be an ongoing and rolling programme of review of the Schools Service.

Mrs Grains said that she believed the amendment being put forward by Mr Nicolson was covered within the terms of the report. She said it was clear that the review process was not just based on educational or cost factors, but a combination of these.

The Head of Schools advised that the timetable for the review of individual schools had been drawn up in consultation and discussion with the Head Teachers of the schools involved, and the initial timetable had been changed to take account of those discussions. She added that it had been agreed that to review two schools at once would be quite difficult, but an exception was agreed for Baltasound and Uyeasound where, in discussion with the Head Teacher and the School Board Chairpersons, it was felt important to consider provision in Unst as a whole. Regarding Sandness, the Head of Schools said that there had been a lot of uncertainty in the community, and following discussions with the Head Teacher, it was felt right to recommend a review sooner rather than later. She went on to confirm that schools that had links with the schools under review would also be consulted during the review process. The Head of Schools added that not all schools had been evaluated by HMI, and it was recognised that the criteria for the inspection process had also changed, and these factors would be taken account of during the reviews, as well as consultation with parents.

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

Amendment (J P Nicolson)	5
Motion (F B Grains)	11

Min. Ref. 52/06 – Library Provision in Scalloway

Mrs I J Hawkins moved as an amendment that a public meeting be held in Scalloway to consider library provision in the area, and that the

outcome be reported back to the Services Committee in 2 cycles. Mr L G Groat seconded.

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

Amendment (I J Hawkins)	3
Motion (F B Grains)	14

132/06 **Executive Committee – 5 September 2006**

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

Min. Ref. 40/06 – Miscellaneous Fund Contract for Fund Management – Exemption from Standing Orders

In response to a query raised at Committee, the Head of Finance advised that current Scottish Fund Managers operate under English law, because it was the industry standard. He said he was not aware of any others that operate under Scottish law, and to make this a requirement would narrow the field of potential Fund Managers.

133/06 **Executive Committee – Economic Development – 5 September 2006**

The minute of the aforementioned meeting was confirmed, on the motion of Mr W A Ratter.

134/06 **Planning Sub-Committee – (a) 30 June 2006; and (b) 9 August 2006**

The minutes of the aforementioned meetings were confirmed, on the motion of Mr F A Robertson.

135/06 **Harbour Board – 10 August 2006**

Subject to the following, the minute of the aforementioned meeting was confirmed, on the motion of Mr J G Simpson.

Min. Ref. 18/06 – West Pier – Scalloway Harbour

Mrs I J Hawkins said that Scalloway Harbour had had a substantial increase in activities and revenue, and that the proposal would increase the infrastructure of the Harbour and allow it to compete with mainland ports. Accordingly, Mrs Hawkins moved as an amendment that the Council proceed with the replacement of the West Pier in 2007/08. Mr E Knight seconded.

Mr L G Groat declared an interest as a Member of the Lerwick Port Authority.

Mr W A Ratter said there was no doubt that Scalloway provided a valuable contribution towards the Council's harbour operations. However, he said that the Council had to take the broader picture into account, and it was incumbent on the Harbour Board to taken into account the overall finances of the Council. Mr Ratter said that given

the pressure on the Capital Programme, it seemed sensible to delay this project until it became necessary.

Members discussed the various capital pier projects the Council aspired to throughout Shetland, and some Members were of the view that, whilst they wished to see Scalloway prosper, the focus of capital investment in Scalloway could be seen to be disproportionate. The Chief Executive advised that a report to the Special Council meeting on 19 September would indicate the considerable pressure that the Capital Programme was under.

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

Amendment (I J Hawkins)	4
Motion (J G Simpson)	11

136/06 **Civic Government Licensing Sub-Committee – (a) 28 June 2006; (b) 20 July 2006; and (c) 9 August 2006**

The minute of the aforementioned meetings were confirmed, on the motion of Mr J P Nicolson.

137/06 **Inter-Island Ferries Board – 11 August 2006**

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

138/06 **Marine Development Sub-Committee – (a) 3 August 2006; and (b) 1 September 2006**

Subject to the following, the minute of meeting held on 3 August was confirmed on the motion of Mr J G Simpson. The minute of meeting held on 1 September was confirmed on the motion of Mr B P Gregson.

Min. Ref. 12/06 – Update on Extending Planning Controls to Marine Fish Farming involving Amendment to the ZCC Act 1974

Mr W H Manson said that it was still unclear what the implications of the amendments would be. He said that the draft Bill would provide the Council with an opportunity to take account of its terms and consider how the marine situation would then be added to the Local Plan. Mr Manson said that the matter would come to the Council for consideration in the first instance.

Mr L G Groat asked that Councillors be provided with an update with regard to the recent problems regarding the mussel farming industry in Shetland.

139/06 **General Fund Revenue Management Accounts 2006/07 for the Period 1 April 2006 to 31 July 2006**

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

[Mr W A Ratter left the meeting.]

140/06 **The Capital Programme – CPMT Report – September 2006**

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

Mr B P Gregson advised that the Head of Housing and Capital Programme Service had attended a meeting of Fetlar Community Council to explain the deferral of the harbour project. Mr Gregson said that whilst the Community Council were disappointed, they understood the reasons and appreciated Mr Medley's attendance.

The Council approved the recommendations in the report, on the motion of Mr A J Cluness, seconded by Mrs I J Hawkins.

141/06 **Capital Project Monitoring Team (CPMT) – Review of Process**

The Council considered a report by the Head of Housing and Capital Programme Service (Appendix 3).

Mr L G Groat expressed concern at the level of delegation being proposed and the apparent lack of Member involvement. The Head of Housing and Capital Programme Service advised that the CPMT were a means of gathering information to be presented to Council for decision. He said that Spokesperson involvement was recommended as a way of ensuring Member input, realising it would be impractical to have all Members involved in every project. He assured Members that the decision making responsibility would still lie with Members.

Mr W H Manson said that the revised process appeared to be a fair system, and was satisfied with the level of Member involvement being proposed.

The Council agreed, on the motion of Mr A J Cluness, seconded by Mr A Inkster, to approve the recommendations in the report, but also that the Member for the area also be involved in the CPMT review of projects in their own areas.

142/06 **Widening Access to Council Membership – Handbook for Prospective Candidates**

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

Mr B P Gregson said that he welcomed the report and the handbook. He referred to Appendix A of the handbook, the outline role description for a Councillor, and said that he was slightly concerned that the duty to represent Shetland as a whole and the balance required between that and their responsibility to their Ward, was not clearly reflected in the description.

Members discussed the time commitment required to conduct their duties as Councillors, and agreed that this would be an important factor for anyone considering candidature. as well as the salary levels being proposed.

The Council approved the recommendation in the report, on the motion of Mr A J Cluness, seconded by Mr F A Robertson.

143/06 **Review of Employment of Staff over Retirement Age Policy**

The Council considered a report by the Personnel Manager (Appendix 5) and approved the recommendation contained therein, on the motion of Mr J P Nicolson, seconded by Mr T W Stove.

144/06 **Trainee Personnel Officer**

The Council considered a report by the Head of Organisational Development (Appendix 6) and approved the recommendation contained therein, on the motion of Mr W A Ratter, seconded by Mrs I J Hawkins.

145/06 **Indicators to Measure Shetland's Quality of Life and Sustainability**

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

Members welcomed the report, indicating that it had been very well presented and laid out, and would be useful as a reference guide.

146/06 **Sullom Quarry – Proposed Extension – 2 Lease Applications**

The Council considered a report by the Head of Legal and Administration (Appendix 8).

Mr W H Manson moved that the Council adopt recommendations 9.1.1 and 9.1.2(2). Mr W A Ratter seconded, and the Council concurred.

147/06 **Smyril Line Settlement and Overview**

The Council considered a report by the Chief Executive (Appendix 9).

Mr L G Groat declared a pecuniary interest in this item, as Chairperson of the Lerwick Port Authority, and stated that he would take no part in the discussion.

[Mr W H Manson left the meeting.]

Mr A J Cluness said that he normally declared an interest in this item, and normally left. He said that he was pleased to say that he no longer had to declare such an interest, as he had resigned as a Director of Smyril Line, and the position had now been filled by Mr Bobby Hunter, a

non-Councillor Trustee of the Shetland Development Trust. Mr Cluness went on to say that as the paperwork had to be completed, he would be leaving the meeting during the Council's consideration of this report. However, he added that he was standing down because of the time commitment required to attend meetings of the Smyril Line, including the travelling time, could take up to a week.

Mr Cluness said he was aware of this report from the Chief Executive, and said that he was very much in support of the Smyril Line. He said the business had brought considerable benefits to Shetland's economy, and had been useful for hundreds of Shetlanders. However, Mr Cluness said that there had been an unrelenting negativity by some parts of the public, which some found difficult to understand. He said that no further money had been invested since the initial stages. Mr Cluness said that information requests under freedom of information legislation had been submitted to the Council asking how much in expenses he had claimed. He said that such questions were suggesting a conflict of interest because he had received a sum for part of a year - £4500 per annum. Mr Cluness said that he had been working for the best part of 30 years in public service, and said that if anyone thought that income of that kind would lead him to make decisions that he would not otherwise make, was reprehensible.

Mr Cluness concluded by saying that if Shetland was to lose this shipping link, it would be a major loss to the community, and a major blow to the standing that Shetland had in the wider world. He said it was important to keep up this transport link, and believed that it was worth continuing.

[Mr A J Cluness left the meeting.]

Mrs F B Grains assumed the chair.

[Mr W A Ratter left the meeting to attend another meeting.]

The Chief Executive advised that recommendation 8.2 should refer to paragraph 4.6, not 4.7.

Mr J G Simpson said that he wished to pay tribute to Mr Cluness, who had put in a lot of hard work towards the Smyril Line appointment, which was also very time consuming. Mr Simpson said he had no doubt in his mind that the work Mr Cluness had put into this particular issue, and been done for the good of Shetland.

Regarding the report, Mr Simpson said that it set out the history of where the Smyril Line was now, in relation to the investments being made by the Shetland Development Trust [SDT]. He added that he was of the view that one of the most important decisions the Council had made was to set up the negotiating group in May 2006. Mr Simpson went on to say that it was important to note that the last tranche of money had not gone, as the SDT was holding that until there

was confirmation of a definite future for the Company. He said that this was why the group had been important, and he was confident with Mr Hunter taking over the role from Mr Cluness. Accordingly, Mr Simpson moved that the Council adopt the recommendations in the report.

The Chief Executive, in response to a question, advised that the delegated authority given by the Council on this matter was in two parts. He said that the terms of this report removed the delegated authority regarding agreeing future ways forward, without coming back to the Council. However, the delegated authority given to him was with regard to the out of court settlement. He said that the legal process still had to be gone through, and whilst the money had not yet been transferred, it was still committed as part of the out of court settlement.

Mr J P Nicolson said that perception was critical in the Shetland community, and as such could be damaging. He referred to the matter of delegated authority, and noted that there was a requirement for the SDT to come back to the Council for investments over £250,000.

However, Mr Nicolson said that good communication was very important, and never more so when delegated authority is given, so that the given authority is clear. He said he understood the pressures on the Chief Executive in terms of time, and the reason for late reports being tabled on this matter, but this only added to the difficulty of understanding. Mr Nicolson went on to say that he accepted Mr Simpson's views, but believed that the Council was opening itself up to misjudgement when small groupings were taking decisions which were seen to be representative of the Council. Mr Nicolson said that he had no personal worries in this regard, but acknowledged the perceptions of the public had lead to concerns.

The Chief Executive apologised for the lateness of reports, but explained that in many cases it was unavoidable. With regard to his role on behalf of the Council, the Chief Executive assured Members that he had no interest other than the Shetland interest whilst undertaking the delegated authority given to him.

During the discussion which followed, the Chief Executive confirmed that the Council taken the decision to commit £680k, and this amount was now committed as part of the legal process.

Mr Simpson confirmed that SDT would be able to retrieve the investments made in the Smyril Line from the book value of its assets.

Mr B P Gregson said he was convinced that the trust put in officers and senior councillors had not been abused in any way whatsoever, and accordingly seconded the motion by Mr Simpson.

Mr A Inkster moved as an amendment that the Council should not go ahead with the investment until there has been a radical change in the future of the company.

However, the Chief Executive explained that the money was not a new investment, but was committed as part of the out of court settlement. He confirmed that there was no further request for delegated authority with regard to further investments, which would come back to the Council.

Mr Inkster acknowledged the explanation and withdrew his amendment.

In order to prevent the disclosure of exempt information, Mrs F B Grains moved, Mr B P Gregson seconded, and the Council resolved, in terms of the relevant legislation, to exclude the public during consideration of the following items of business.

[Representatives of the public and media left the meeting.]

[Mr F A Robertson left the meeting.]

148/06 **Employees Joint Consultative Committee – 8 August 2006**

The Council noted the minute of the aforementioned meeting.

149/06 **Bells Brae Copper Pipework Replacement – Use of Emergency Powers to Negotiate a Tender**

The Council noted the terms of a report by the Head of Legal and Administration.

150/06 **Short to Medium Term Office Accommodation Strategy – Acquisition Opportunity – Old Fire Station, Grantfield, Lerwick**

The Council considered a report by the Head of Legal and Administration and approved the recommendations contained therein, on the motion of Mr E Knight, seconded by Mr A Inkster.

[Mr F A Robertson returned to the meeting.]

151/06 **Infrastructure Committee - 29 August 2006 – Min. Ref. 50/06 – Building at Risk**

The Council noted the terms of an additional report on this matter.

Mr B P Gregson said he welcomed the terms of the report, and Members supported the action being taken.

A J Cluness
Convener