MINUTES of the CHRISTMAS MEETING of CHIEF PLEAS

Held in The Island Hall, Sark on 16th January, 2013 at 10.00am.

Present: Sieur J.M. Beaumont OBE, Seigneur; Lt. Col. R.J. Guille MBE, Seneschal; K.N. Adams, Prévôt; T.J. Hamon, Greffier; W. Kiernan FCA, Treasurer and the Constables.

22 Conseillers were present (see attached).

Apologies were received from Conseillers D. Baker, E. Baker, R. Dewe, Mann & Perreé.

0 Opening Comments

- 0.1 <u>Lt. Governor</u> The Lt. Governor was unable to attend the Meeting but the Seneschal, on Chief Pleas' behalf, wished His Excellency & Mrs Walker a happy and successful 2013.
- Mrs. Heather Baker The Seneschal reported the recent death of Mrs Heather Baker who stood for election as a Deputy of the People in December 1966, taking her seat on the 18th January 1967 and attending her last Meeting on the 10th August 1976, almost completing three terms. She then became a Tenant Member on the death of her father taking her seat for the first time on the 4th October 1989; she remained a Tenant Member until selling the tenement in the late 1990s. The Seneschal asked those present to stand for a silence in her memory.
- Appointment of new Seneschal The Seigneur explained that the Seneschal Appointments Committee, consisting of himself as Chairman, His Honour Judge David Brunning and Mr Christopher Day, one time H.M. Procureur and Deputy Bailiff of Guernsey, with Mrs Suzette Adams in attendance, had rigorously interviewed the sole candidate and concluded that Mr. Charles Jeremy La Trobe-Bateman was a strong and able candidate to take on the position and had invited His Excellency to approve the appointment. The Seigneur had received a letter from His Excellency approving this appointment with effect from midnight on 26th February 2013 in succession to Lt. Col. R.J. Guille MBE. Arrangements were being made for Mr. La Trobe-Bateman to be sworn in before the Royal Court on 4th February 2013.
 - In the letter, His Excellency went on to record his appreciation for the work of Lt. Col. Guille and to thank him for his years of dedicated and distinguished service to the community of Sark.
- Court Recording System The Seigneur wished to bring to the notice of Chief Pleas that his learned colleagues on the Appointments Committee believed that the present system of recording and playback equipment available to the Court was not fit for purpose and considered it essential that the latest recording system compatible with the Guernsey Court be made available to the Seneschal's Court.
 - He advised the Committee responsible to treat this request with some urgency.
- Vin d'Honneur At the next meeting of Chief Pleas on 27th February the Seneschal's role will have been split. The Seigneur said that Lt.Col. Guille had held the post of Seneschal and President of Chief Pleas with distinction for 13 years. He had always had the welfare of Sark as his prime concern and had served the Island extraordinarily well over many, and sometimes very difficult, years. He wished to propose that Chief Pleas hold an Island-wide Vin d'Honneur at the conclusion of the morning sitting of Chief Pleas on 27th February 2013.
- Mr. Stephen Taylor & Mr. Simon Higgins The Seneschal thanked Mr Taylor & Mr Higgins for the service they had given to Chief Pleas in the past 15 months. Both stood for election in the by-election held in September 2011 and both stood again for election this December but were unsuccessful in that attempt. Mr Taylor served on the Sea Fisheries Committee throughout his time in office whilst Mr Higgins served on the Road Traffic and Agriculture Committees.
- Unsuccessful Election Candidates The Seneschal also mentioned other residents who stood for office in December but were similarly unsuccessful; they were Mr Tony Le Lievre, Mr Simon Couldridge, Mrs Lorraine Southern, Mrs Gemma Knight, Ms Natalie Craik and Mr Paul Burgess. He said he had asked them to consider standing at any future election that is called and thanked them for giving the electorate a good choice of candidates to select from on polling day.
- O.8 Tax Tribunal Panel The Seneschal reported a change in membership of the Tax Tribunal Panel. With the election of Mr. Robert Cottle as a Conseiller on 12th December 2012 he was deemed to have resigned as a member of the Tribunal. An application was made by the Seneschal to the Lieutenant Governor to appoint a new Member, selected by the Tax Tribunal Panel.
 - On 17th December 2012 His Excellency was pleased to approve the appointment of Mrs Bertha Cole to the Tax Tribunal Panel. Mrs Cole was sworn into office by the Seneschal's Court on the 11th January 2013. The Seneschal went on to thank Mrs Cole for undertaking this service to the community and, on behalf of Chief Pleas, thanked Conseiller Cottle, for his service to Sark on the Tribunal Panel.

Election Observers Report – The Seneschal advised that, at the conclusion of the Chief Pleas' Extraordinary (Special) Meeting on 11th January 2013, the Report of the Election Observer, Sir Norman Browse, was handed to all Conseillers, Officers and some members of the public. The report was also sent out as a press release and is posted on the Government website, with further free copies for the public to collect in the village.

For clarification purposes only, the Seneschal wished to point out that in the preamble where it says 'In response to a request from the Right Honourable Lord McNally and the Government of Sark....', Sir Norman could not know that the Government, i.e. Chief Pleas, had not requested an Observer as the letter from Lord McNally setting this in motion arrived after the election process had started and Chief Pleas was unable to be convened to discuss the requirement.

Conseiller Fry made a statement referring to the Election Observer's Report and highlighting his very positive comments to the questions he had been tasked to answer – his final summing-up being "...the whole process was open and transparent". Conseiller Fry went on to read Sir Norman Browse's postscript with regard to a letter he had received from Mourant Ozannes, advocates, acting on behalf of Mr. K. Delaney, complaining about comments made by the Seneschal and reserving the right to call for the election to be set aside and re-run. His comment had been that he considered "...that this letter should be ignored as it appears to be an unjustified personal attack on the character of the Seneschal, who has served Sark diligently for many years".

- 0.10 <u>Island Parish</u> Conseiller S. Williams (Chairman of Tourism Committee) asked for a vote of thanks to the BBC for its programme *Island Parish* for putting Sark 'on the map'. She reported that, at this time of year, around 220 visitors would visit the Island website on an average Friday but, during the airing of the weekly episodes of Island Parish, this number rose to an average of 700 visitors with a peak at the first episode and the next highest day being the final episode with over 800 visitors. This resulted in visitations to the site increasing by over 330% during the days when the show was aired. Of site visits recorded, 75% were new visitors and 24% returning visitors. This was all very positive. Copies of these statistics are available
- O.11 Post of Deputy Seneschal The Seigneur advised that the advertisement for the position of Deputy Seneschal had been posted on 15th January, 2013 and would run for four weeks.
- 0.12 <u>Deputy Chairman, Harbours & Pilotage Committee</u> Conseiller Guy, Chairman of Harbours & Pilotage Committee, advised that the Deputy Chairman of that Committee was Conseiller Cocksedge.
- 1 Minutes of an Extraordinary Meeting on 14th November, 2012

The minutes were **APPROVED** with no changes.

2 Matters Arising

There were no matters arising

3 Minutes of an Extraordinary (Special) Meeting on 11th January, 2013

The minutes were **APPROVED** with no changes

4 Matters Arising

There were no matters arising

5 Questions not related to the Business of the Day

There were no Questions not related to the Business of the Day

6 General Purposes & Advisory Committee "The Air Navigation (Bailiwick of Guernsey) Law, 2012"

6.1 Maitland

6.2

Originally the report was written to cover both Items 6 & 7 and he had noticed that, in splitting the reports, the wording "... Gives powers to the Aviation Security Regulator so that he can carry out his functions and..." which actually refers to Item 7, had inadvertently been included in Item 6 and should be deleted.

The Committee had spoken to the Director of Civil Aviation, Fergus Woods, who confirmed that Sark's position under the 2008 Aviation Law is not affected in any way by the changes brought in under these two laws. The 2008 Law provides for consultation prior to any changes being made that might affect Sark, particularly in connection with the R095 Airspace restriction.

The changes incorporated in the new Air Navigation Law are listed in the report.

6.3	Maitland	However, Item 16 on this agenda deals with consultation on aviation matters and the Committee would like to defer this item until Easter Chief Pleas to make sure
		that nothing in the new law affects Sark's right of consultation.
6.4	Melling	Has concerns over the protection of Sark's 'no fly' restriction. He fully understood that this was enforced by a Guernsey Statuary instrument, The Air Navigation Restriction of Flying (Guernsey) Regulation 1985. He was not sure how this transforms into Regulation R095 which has been quoted recently. However, what
		he was sure of was that the Director of Civil Aviation can revoke this Regulation on his own. He said Sark should, at the very least, have input into <u>any</u> decision with
		regard to any Law or Regulation that directly affects it.
		He would therefore not be voting for this legislation at this stage; he would reconsider it if written assurances were given that "consultation and approval from Chief Pleas" is first obtained. He felt it should have to be very clear in Law.
6.5	Maitland	This point concerned the Committee as well.
6.6	Cocksedge	He wished to inform the general public that if they hold fetes, garden parties, etc.
	-	and are releasing balloons for charity they need to notify the Director of Aviation if
		they release a thousand or more balloons. Secondly, within Guernsey Aerodrome
		space, kites can only be flown to a height of 30metres;— outside this space it is to a height of 60metres.
6.7	Plummer	Concurred with Conseiller Melling saying the public were worried about the current
		protection of Sark's air space being taken away.
6.8	S. Williams	Also concurred and queried whether, as Item 16 was being deferred, Items 6 and 7 should be as well.
6.9	Guy	A group of residents who have done a considerable amount of research on aviation
		matters have made representations to her about this item, item 7 and item 16.
		She had suggested they took their points to GP&A members whom, she thought,
		would be better equipped to respond to their questions. She asked the GP&A Committee if they have had a chance to listen and respond to
		the points that they made. Particularly:
		 Is there a mechanism for Chief Pleas to overturn a regulation made by the
		Director of Civil Aviation which does not seem to be in the best interests of Sark? and
		 Is control of the creation of airstrips, airfields and helipads throughout the Bailiwick given exclusively to the Director of Aviation?
6.10		Secondly, this is a huge document and one which she could not say that she had
		read with the thoroughness needed. She believed that States members in Guernsey
		often get a synopsis written by trusted civil servants. Would it be possible for Chief
6.11		Pleas to have these synopses in cases like this? Finally, given that GP&A have a very large workload, would there be any mileage in
0.11		considering co-opting a member of this 'think tank' to GP&A to assist solely with
		aviation matters?
6.12	Prevel	Also expressed his concern and concurred with Conseiller Melling
6.13	Adams	Agreed with Conseiller S. Williams and felt that if Item 16 was deferred then it made
		sense to defer Items 6 & 7 for full consultation on the issue.
6.14	Ventress	Said he also felt Items 6 & 7 should be deferred.
6.15	Hunt	Was also in agreement with this.
6.16	Cocksedge	Felt it wrong to defer Item 7 as this concerned general safety etc, - much more than
6.17	Seneschal	just the overflying of Sark. Informed the Assembly that the States of Guernsey had passed resolutions on 30 th
0.17	Concoona	September 2011 and 1 st November 2012 to approve the Projet de Loi.
6.18	Bache	Explained that the R095 Airspace restriction refers back to the 1985 regulations
		confirmed in the 2008 Aviation Law and there are no changes to this in the 2012
		Law being considered today. Part 3 of the 2008 Aviation Law has been put into the
		new Law with other minor detail changes so that there can be a proper Aircraft
		Registry. The new Law does not set aside the 2008 Law. He asked the Assembly to
0.15		think about this before making a decision.
6.19	Hunt	Felt the title of the Law was misleading but Sark did need to make sure it was fully
6 20	Maitland	protected.
6.20	iviaitiaiiU	Re-iterated that The Air Navigation Law, 2012 actually deals with navigation rules and brings standards up to international requirements. Sark was still protected
		under the 2008 Law and was not threatened under the Laws being proposed.
6.21	Dropositi	on LOST

6.21

7 General Purposes & Advisory Committee

The Aviation (Amendment) (Bailiwick of Guernsey) Law, 2012

- 7.1 Maitland With reference to the splitting of the report as mentioned above the wording "Allows for an aircraft registry within the Bailiwick" should be deleted from Item 7
- This is a similar Law to Item 6 and deals principally with the appointment of an Aviation Security Regulator who also becomes the Deputy Director of Civil Aviation and the changes required in the law that deals with such an appointment. There are a few further minor amendments concerned with technical details.

7.3 Proposition – CARRIED

That Chief Pleas approves The Aviation (Amendment) (Bailiwick of Guernsey) Law, 2012

8 General Purposes & Advisory Committee The Employment Agencies (Enabling Provisions) (Bailiwick of Guernsev) Law.

2012

- The Employment Agencies (Enabling Provisions) (Balliwick of Guernsey) Law
- 8.1 Maitland This Law deals principally with the regulation of seafarer recruitment and placement services to give domestic effect to the 2006 Maritime Labour Convention. There are no such agencies in Sark but maybe in Guernsey. In future, employment agencies might also be regulated in the Bailiwick using this law but there are no plans to do so at the present time.
- 8.2 Cocksedge Confirmed this is mainly dealing with seafaring employment. He presumed this would apply to Sark where companies are organising offshore oil workers affairs etc. Chief Pleas needs to ensure that the Island is not blocked from providing any service that could be a way of providing employment in the Island.

8.3 **Proposition - CARRIED**

That Chief Pleas approves The Employment Agencies (Enabling Provisions) (Bailiwick of Guernsey) Law, 2012

9 FIREARMS COMMITTEE

Specialist Police Firearms Officers

Memorandum of Understanding with Guernsey Police

- 9.1 Ventress Had been asked to present this MoU with Guernsey Police as Conseiller R. Dewe, Chairman of Firearms was indisposed. In presenting the MoU, he would just like to answer all the criticism levelled in the Sark Newsletter No.206. The Committee does know how many licences are issued in Sark, how many guns are held on the Island and that they are all held securely. When necessary, the services of the Guernsey Police Firearms Officer have been used to carry out checks. This MoU is to formalise the arrangement.
- 9.2 Bache With reference to paragraph 3.1 asked what would happen if the person concerned refused a vetting security check.
- 9.3 Ventress The Committee would consult and probably refuse the application.
- There are a number of areas where Sark has to take or buy-in expert advice and this is certainly one of them. Whilst very much in favour of this initiative and will vote accordingly and, despite a helpful correspondence with the Chairman of The Firearms Committee, Conseiller Guy said she still felt that it is possible that this should be an MoU between the Sark Constables, exclusively, and the Guernsey Police and that a number of bullet points in the MoU should refer exclusively to The Sark Constables.

Her reservation is that the concept of politicians having MoU's with the police does not sit easy with her as she has always maintained that there should be a distance between the law makers and the law keepers.

She asked if the Firearms Committee would check-out those reservations before signing the MoU, should Chief Pleas decide that it wished it to do so.

- 9.5 S. Williams Said she concurred with Conseiller Guy
- 9.6 Cocksedge Asked if airguns, bows and spear guns should be added to a list of where they are held in light of what happened in Guernsey recently.
- What does the Committee envisage the cost to be of implementing this MoU and is it covered in the 2013 budget?
- 9.8 Ventress Sark is responsible for any costs incurred on Sark but this is fairly negligible. Guernsey covers all costs incurred on that island.
- 9.9 Hunt Felt the Committee should be involved in the MoU because it issues the licences.

9.10	Guy	Requested reassurance that the Committee would be prepared to discuss who should sign the MoU before doing so saying surely all the information was available
9.11	Gomoll	to the Constables anyway.
-		Sought assurance as to how firearms are held securely.
9.12	Ventress	When licences are issued it is stated that guns must be kept in a secure approved cabinet or in a secure place that is unobtainable to anyone else.
9.13	Mallinson	Are checks made on these cabinets?
9.14	Ventress	Replied that checks were done.
9.15	P. Williams	Could confirm this was so, explaining that the Constable or Committee members frequently checked his cabinet.
9.16	Ventress	With regard to the signing of the MoU, he explained that both the Constable and Vingtenier were ex-officio members of the Committee anyway and attend meetings.
9.17		Explained that cross-bows and possibly ordinary bows were under consideration for controls. Gas powered air guns were controlled by legislation in Guernsey but nongas powered ones were not in neither Guernsey nor Sark.
9.18	Guy	Asked for assurance from Conseiller Ventress that, before signing the MoU, the Committee would discuss and seek advice, including from the Law Officers, as to whom should actually sign the MoU, bearing in mind her concerns
9.19	Ventress	Said that this would be done.

9.20 Proposition - CARRIED

10.11

Guy

That Chief Pleas gives permission to the Chairman of the Firearms Committee to sign the Memorandum of Understanding with the Guernsey Police on firearms matters

10 **General Purposes & Advisory Committee** The Role of the President of Chief Pleas

The Seneschal withdrew from the meeting resuming his presiding role upon conclusion of this item. The Deputy 10.1 Seneschal, Mr. J. La Trobe-Bateman presided over this debate. 10.2 Maitland The length of this report reflects the amount of research and indeed time that has gone into it. The Committee will, he was sure, breathe a collective sigh of relief once the Splitting of the Dual Role of the Seneschal has been accomplished and all can move on with other pressing issues. It has been a long haul over several years and a most difficult task to resolve, liable to inflame emotion and cause dissension. 10.3 He was sure that all those present today will have different views on whether the Committee have got the remuneration issues right or not - which indeed will reflect the opinions of the residents of the Island. It is not an easy subject when so many in Sark give their time in public service freely and without charge. 10.4 It is always easier to increase rather than decrease payment to individuals and he would like to emphasise the point made in the last paragraph of Page 5 -"Considerations should be given to an annual review, not one that is necessarily linked to inflation, but reviews the actuality of the work undertaken and the hours worked. This review should be especially detailed after the first year to ensure fairness to all parties.....". In other words the payment to the President can be adjusted. 10.5 He was not going to review the report as Conseillers will have had the chance to read it at their leisure, however the Committee will be pleased to answer questions raised as to the thinking behind the report and to offer clarification where needed. 10.6 Hunt Queried the role of a clerk and questioned whether the President could take on the role himself. 10.7 Maitland There is no reason why he should not. 10.8 Adams Had been gauging the hours to be worked by the President and asked if he/she would be required to be available in his/her office and at what hours. 10.9 Bache The President will have a service office but no regular hours are planned at this time. It will be up to him to let people know when he is available. 10.10 Prevel Said that he had found the treatment of the Seneschal and President of Chief Pleas since 2008 disgusting - not only by people outside of Sark but also within Sark and felt now to offer such a small fee was nothing short of derisory.

This very thorough report had given her much food for thought. It is much broader based than the title suggests and is, she believed, a gentle reminder to many of us about how the structure of government should, and has to be. Personally, she took no objection to this, indeed welcomed it. We are all amateurs, though well meaning and hardworking...but we, big cogs in the running of our tiny democracy, have to operate amongst the professionals in the field and have to play by the same rules.

10.12	Guy	This is difficult and it is why she also welcomed the presence of a temporary Chief Secretary and hoped that we may move towards a full time one sometime soon. We need help.
		The splitting of the dual role of the present Seneschal has been no easy task and a number of Conseillers here today voted for the splitting with their head, though their heart wanted to do otherwise. Other members, mindful of our history and almost certainly mindful of the dignity, patience and integrity, often in very trying circumstances, of the present Seneschal, could not bring themselves to vote in favour of splitting the role at all.
10.13		The GP&A Committee has, no doubt, had the most difficult of jobs working a way through this to ascertain what was legal, appropriate, fair and least likely to be challenged. The suggestion that they offer us here seems reasonable. It is fair, it is certainly good value to the tax payer and no doubt all of us can think of a few people, but not a huge number, who would have the skills and ability to fulfil the position if they were willing to do so.
10.14		In the summary of the role she believed, and had had it confirmed, that the present Seneschal in his role as President of Chief Pleas does have some contact with the Ministry of Justice though this is becoming less, as elected politicians deal directly with the MoJ. The present Seneschal, as President of Chief Pleas, also has dealings with the Privy Council about matters concerning Royal Assent and The Royal Courts of Justice concerning judicial reviews and appeals. These aspects are not listed here so it will be necessary to decide who is going to carry out those important tasks and get them on the job descriptions as appropriate.
10.15		A part time clerk to the President of Chief Pleas is also mentioned and, at a suggested 50 hours per annum this might cost an additional £800 –ish. It certainly would be sensible for all aspects related to Chief Pleas to be removed from the present Committee Clerk, who, although in theory he has nothing to do with the organisation of Chief Pleas meetings, does sometimes get askedsimply because he is there and, of course, he knows how to work the photocopier!
10.16		In the recommendations section it is suggested that an annual review should take place, to review both the suggested remuneration and the work. This will be vital: it is possible that, in the light of the work starting to be done by the new President of Chief Pleas, we will find that the role is bigger, or less likely, smaller, than this paper suggests that it is. She would like to see a review procedure implemented for other island officers on a regular basis, for it to become the norm, and this is not because she thinks that people are under performing or are over paid. Quite the opposite: she suspected that the workload of several of Island officers simply increases and increases and, good natured as they are, they carry on doing it with little or no quibble.
10.17		This 'simply getting on with it is part of Sark. She felt that the two propositions here reflect that and, unless hearing some very good arguments that she should do otherwise, will vote in favour of them.
10.18	Melling	Was concerned about the lack of regular office facilities. Sark's government was unique and people came to the Island to see how it worked. The Seneschal with this dual role entertained journalists etc. in his office – this was an important aspect of Chief Pleas.
10.19	S. Williams	Felt there was no choice and the matter had to be dealt with. She agreed with Conseiller Prevel - the remuneration had not been set right and was an insult.
10.20	Bache	Traditionally the Seneschal has been available in his office at certain hours. However, looking at the future, with the dual role being split, how many people want to talk to the President about Chief Pleas. Whilst it is a change it does not preclude people getting in touch with the new President.
10.21	Dep. Sen.	Advised that an office had been set aside for the President in the re-furbished Assembly Room.
10.22	Cook	As a member of GP&A Committee he said the Committee did not want to upset the balance and felt what was being proposed was right for Sark.
10.23	Melling	Felt that this was just an observation saying there was pressure to pass this proposition as, if not passed, there would have to be another Chief Pleas meeting
10.24	Adams	before the election of the President next month. Said she was minded to accept the proposition but with the assurance that the workload, hours worked and remuneration will be reviewed after the first year

10.25 Maitland

Gave this assurance saying that it will have to be seen how it all works out. He mentioned that the Alderney President is paid a modest amount and said that there are Sark residents quite prepared, and would be honoured, to take the position at the level proposed. He hoped the Assembly would support the propositions.

10.26 **Proposition 1 – CARRIED**

That the President be offered an honorarium of £4,000 per annum for presiding over sittings of Chief Pleas, overseeing the necessary preparatory and post-sitting work and liaising with Government House and the Bailiff's Office in Guernsey, and that in recognition of other civic duties, an agreed expense allocation of £2,500 per annum be paid.

10.27 Proposition 2 – CARRIED

That any fees payable with regard to services provided as an Island Trustee and as a Returning Officer, be additional and as agreed on the basis of comparable fees paid to individuals for such services elsewhere.

Chief Pleas took a ten minute break at 11.15am after which the Seneschal resumed his presiding role.

11 General Purposes & Advisory Committee

Appointment of Deputy Treasurer

11.1 Maitland Had nothing further to add to the accompanying report.

11.2 Proposition – CARRIED

That Chief Pleas confirms the appointment of Mrs. Wilhelmina Parsons to the position of Deputy Treasurer, as recommended by the General Purposes & Advisory Committee, subject to a satisfactory probationary period of six months.

12 Finance & Commerce Committee

To Elect an Assistant Tax Assessor

- 12.1 Gomoll The Finance & Commerce Committee would like to nominate Mr Simon Boyd de Carteret as the Assistant Tax Assessor.
- 12.2 Guy Asked if the same checks and balances had been adhered to as had been with the nomination of the Deputy Treasurer.
- 12.3 Gomoll The Tax Assessor carried out that process before putting his conclusions forward to

the Committee as the conduit for presentation to Chief Pleas. The Committee has discussed the nomination and recommends Mr de Carteret being appointed to this

position.

Mention was made that it may be necessary for the current Tax Assessor's term to be extended for a further period until legislation was in place to appoint a Deputy, leading to a subsequent replacement.

12.5 Proposition – CARRIED

That Chief Pleas elect Mr. S.B. de Carteret as Assistant Tax Assessor.

13 Agriculture Committee

Non-Chief Pleas Members

- 13.1 Conseiller Prevel declared an interest, advising that he would take no part in the debate or vote.
- Hoped that Chief Pleas would endorse the nominations of Ms. Jo Birch and Mrs Penny Prevel saying that their appointments, as non-Chief Pleas members, would be of benefit to the Committee in its deliberations.
- He informed the meeting that a consolidated report regarding snares and spring traps would be brought to Chief Pleas soon.

13.4 **Proposition – CARRIED**

That Chief Pleas endorse the nominations to elect Ms. Birch and Mrs. Prevel as non-Chief Pleas Members of the Agriculture Committee

14 General Purposes & Advisory, Medical & Education Committees Non-Chief Pleas Members

14.1 Maitland

Conseiller Maitland said that the GP&A Committee would also like to co-opt Mr. Peter Cole as a non-Chief Pleas member onto its Committee to work specifically on the securing of a Top Level Domain Name for the Island. Mr. Cole was a former Conseiller and member of the Committee and had dealt with this issue at that time.

14.2 Proposition – CARRIED as amended

That Chief Pleas accept the nominations for non-Chief Pleas Members described in the report and approve the appointment of Mr Olsen <u>and Mr Cole</u> to the GP&A Committee, Dr Norwich to the Medical Committee and Mr A. Guille to the Education Committee, all for a further two year term.

15 Shipping Committee

Renewal of Agreement regarding the existing Island loan to the Isle of Sark Shipping Company Ltd.

- 15.1 As an employee of loSS, Conseiller J. Hunt declared an interest and left the room for this debate.
- Said that the report clearly sets out the position. This loan goes back a number of years and the Committee is only asking for a repeat of what went through Chief Pleas two years ago and also two years before that.
- Following the resignation of former Director Mr Taylour, it was stated in Midsummer Chief Pleas 2009 (Ref: 4.2) that Mrs Mann and fellow director Mr Smith would continue their work in bringing our lifeline shipping company back to sound financial health. In the light of the Company still having a £254,788 loan, is the Committee happy that the Company is still on track to becoming a stable financial company and when do the Committee envisage the loan being paid back?
- Accounts for the last three years have been available to the public, this year's accounts will be ready soon and there is to be a Public Meeting before the end of next month. With regard to repayment of this very old loan, this Committee, together with Finance & Commerce Committee, will be looking at how to deal with this in the best interest of Sark and will report back to Chief Pleas.

15.5 **Proposition** – **CARRIED**

That Chief Pleas will not require the Isle of Sark Shipping Company Ltd. to repay any part of the outstanding loan of £254,788 for a further period of 24 months from this date.

16 General Purposes & Advisory Committee Aviation Consultation Procedures

Informed Chief Pleas that the Committee has further considered this item and had decided to withdraw it from the agenda at the present time.

16.2 **Proposition** – WITHDRAWN

17 General Purposes & Advisory Committee Fitting out the Assembly Room

- Explained that Conseiller E. Baker, who was unable to attend this meeting, had been dealing with the re-furbishment and asked if the Deputy Seneschal who had been acting as Clerk of Works could speak if required. The Seneschal said he would wait to see what questions were asked.
- would wait to see what questions were asked.

 Had no problem with the sound system but was concerned about the seating. She wondered why there were no plans drawn up; they would have been helpful and could have been looked at carefully. She did not think there was room for the original tables and chairs to go back hence the need to spend £9,500 on benches.
- Agreed with Conseiller Dewe and said spending £9,500 on fitted seating was unnecessary. She felt it could be better spent on other projects. She mentioned that Chief Pleas had agreed £3,000 some years ago for a recording system so was it, in fact, another £4,500 required and not a further £7,500?

17.4	Guy	Had visited and spoken with the works supervisor; the redesign of the offices and Assembly Room looked very good to her. Sark has few large, roofed public spaces and we can remember, in the recent past, how the hall floor renewal caused a deal of inconvenience, as could a major
		problem in the fabric of the school. She asked if, in extremis, the fitted seating could be 'unfitted' or deconstructed reasonable quickly and easily should the Assembly Room ever need to be made
17.5	Bache	into a large clear space in the event of an unexpected difficulty elsewhere. Was basically in favour stating that if the project went ahead it was necessary to have a quality finish. He felt the recording system was essential. He asked if the
17.6	Gomoll	money was available. Said the money was available from Capital Expenditure and this was confirmed by the Treasurer.
17.7	P. Williams	Asked who had been consulted about the sound and recording system; having
17.8	Cocksedge	some knowledge of such systems he thought the proposed project was expensive. Suggested talking to Mr Ray Lowe who installed the recording system for the States of Guernsey. His system would be compatible with Guernsey and it could be the
17.9	Adams	best option. Asked if any alternative seating had been considered. After the recent Conseillers' Workshop she was aware of the need to prioritise projects and did not know if finance was likely to be required elsewhere.
17.10	Maitland	Answered these questions, saying that the seating planned could be de-constructed and he was not aware of any other impending capital expenditure. However, he said it was important that people were able to hear what the Conseillers were saying in debates and urged the Assembly to go forward with a complete sound system.
17.11	Seneschal	Requested an indication from the Assembly following a proposal earlier from Conseiller Maitland that Deputy Seneschal, Mr. J. La Trobe-Bateman, acting as Clerk of Works, be allowed to speak and answer questions. The vote was carried.
17.12	S. Williams	Asked why the existing chairs and tables could not be used.
17.13	Dep. Sen	Explained that the increased area of public seating restricted the space for tables and chairs in the Assembly area. The benches could be moved aside if needed although they would be lightly fastened to the floor. There would be access for 10-12 seats in the front if needed without any inconvenience.
17.14	Adams	Asked if there were any alternatives.
17.15	Dep. Sen.	He had discussed this with GP&A Committee. Whilst chairs (but not tables) were possible, chevroning benches was the most logical solution. Two young Sark craftsmen were lined up to do the work and there was no concern over the quality of the finished construction.
17.16	P. Williams	Has anyone else other than Mr. R. Lowe being consulted about a sound system?
17.17	Dep. Sen.	Realistically, Mr. Lowe is the only suitable person. He is a Sark resident, installed a similar system in Guernsey and has negotiated a good deal with suppliers.
17.18 17.19	Melling Dep. Sen.	Expressed concern about the suitability of the layout when the Douzaine meets. Said that the dais where the top table would be was quite wide and possibly the table/bench could be moved back allowing a metre or so for a front row of chairs or there would be room in front of the dais.
17.20	Seneschal	Pointed out that the top table would be a purpose built fixed bench which would be wired for the recording system and was primarily for the use of the Court.
17.21	Bache	Asked if the layout of the benches took into account Court sittings and weddings.
17.22	Dep. Sen.	Benches facing each other would not be suitable but with the benches in a chevron arrangement, this would suit Court sittings and would be suitable for weddings, allowing for an aisle down the centre of the room.
17.23	Greffier	At the request of the Seneschal, the Greffier explained that from a wedding perspective the proposed layout was ideal with possible seating for fifty persons and standing room available as well. At present, if the wedding has a large number attending, the room has to be cleared of furniture, taking a great deal of time, and there is no seating for guests.
17.24	Seneschal	The Deputy Seneschal was thanked for his contribution.
17.25	Mallinson	Asked if the proposition could be split; whilst happy with the recording/sound system she had concerns over the seating costs.
17.26	S. Williams	Also suggested splitting the proposition.
17.27	Nightingale	Asked if the sound system was wired into the benches, what would be the consequences be if there were no benches.

17.28	Seneschal	Said it would be hybrid solution. The Court required a recording and sound system. It was a decision for Chief Pleas as to whether they wished their meetings to be recorded.
17.29		He went on to explain that the top bench is to be fitted for the Court and this is part of the £9,500 so there will be some expenditure even if the seating arrangements are not approved.
17.30		The Seneschal called a ten minute recess for the GP&A Committee to consider individual aspects of the proposition.

Chief Pleas took a ten minute break at 12.10pm

17.31	Maitland	Whilst respecting both points of view, the Committee was of the opinion that this needed to be a 'complete property', used for weddings, court work etc., with a sound/recording system in place and should be finished to a suitable standard and quality to reflect its status as both the Island's Parliament building and as a top venue for functions. The Committee wished to keep the proposition unchanged.
17.32	Hunt	Asked if the amount for the sound/recording system was to be changed.
17.33	Maitland	In 2008 Chief Pleas passed a resolution that it would have a recording system but it was never priced so it was felt prudent to put in the amount of £7,500.
17.34	Hunt	Suggested that the wording be changed to <u>a sum of £7,500</u> instead of <u>a further</u> <u>£7,500.</u>

17.35 **Proposition – CARRIED as amended**

That Chief Pleas approve from capital expenditure the sum of £9,500 for fitted seating and tables in the Assembly Room and $\underline{a \ sum \ of \ £7,500}$ for a complete sound/recording system.

18 Medical Committee

18	wedicai (committee
	The Menta	al Health (Bailiwick of Guernsey) Law, 2010
18.1	Hunt	Chief Pleas has already approved the Mental Health (Bailiwick of Guernsey) Law, 2010 and in 2012 we were visited by the mental health implementation team who spoke with the Medical Committee, the Constable, Seneschal and Deputy Seneschal and discussed how matters would be dealt with on Sark should the occasion arise to admit a patient who did not want to be admitted voluntarily. The report shows the Committee would be able to use the Seneschal to support the doctor should it ever have occasion to admit a patient and could not get an approved social worker across to Sark. In such an instance, the patient has a right to appeal to the Tribunal; this report recommends the Committee paying annually into a scheme which it can use on any such occasion with no further costs involved. The cost without such a subscription cannot be quantified but if one considers the cumulative cost for two people to travel and stay overnight, as well as the setting-up
18.2	Seneschal	of each Tribunal, the cost would bound to be significantly more.
18.3	Hunt	Asked for clarification as from where the Tribunal members would be coming.
18.4	Bache	It could well be from the UK and could cost a substantial amount of money.
18.5	Hunt	Asked how many such cases there had been over the previous five years. Explained that the Mental Health Law had only just come in and there are no costings to date but if more than one case a year the Island would benefit from belonging to the scheme.
18.6	Seneschal	Reported that in the last five years there had been two instances of action being taken under mental health provisions. If this had happened under the new system these might have resulted in the Tribunal sitting.
18.7	Bache	Felt it was an expensive insurance policy if only two cases in five years.
18.8	Adams	Asked if £500 per annum would include court costs if the appeal was upheld and recompense was sought.
18.9	Hunt	Said that he did not have the answer at present but did not think so.
18.10	Seneschal	Remarked that if this proposition was not accepted Sark would have to pay the full costs of a Tribunal should it be required.

18.11 **Proposition – CARRIED**

The Medical Committee recommend that Chief Pleas pay £500 per annum to Guernsey's Health & Social Services Department towards the cost of using the Mental Health Tribunal on occasions when it is required for a patient resident on Sark.

19 General Purposes & Advisory Committee Electricity

The report covers the point that the Law Officers are putting the finishing touches to the draft Projet de Loi covering future regulation of electricity prices. It is hoped to

bring this Projet to the Easter meeting of Chief Pleas. He re-iterated that it remains the Committee's preferred solution to reach an agreement with the Sark Electricity

Company, if this can be achieved.

19.2 Cocksedge Asked, in the light of the letter from Mr Gordon Brown of the Sark Electric Company

to the general public, if there had been any further communications on the subject

of a mediator.

19.3 Bache Replied that the Committee were looking at his suggestion and it would have to be

seen what happened.

20 Development Control Committee Application for a Declaration

The Housing (Control of Occupation)(Sark) Law, 2011

20.1 Dunks Reported that The Housing (Control of Occupation)(Sark) Law, 2011 has been to the Privy Council and received Royal Assent. It is proposed to bring the Commencement Ordinance to Easter Chief Pleas.

He explained that within this Law there is the facility for a person to write to the Douzaine applying for a declaration that a given person is a qualified resident or a given dwelling is unrestricted. This report presents to the Douzaine a list of documents that they may wish to consider when such an application is made. Conseiller Dunks went through the different lists but said that Douzaine did not have to accept these suggestions.

Whilst very much aware that this is an information report only, Conseiller Guy welcomed the opportunity to have a discussion before the issue is continued further along the lines suggested, saying there are two key issues:-

- a) Ordinarily resident is not defined anywhere, though the expression is used frequently, but it is thought for the purposes of this report to be that the applicant's address is the one at which they normally reside upon Sark and that there is no other address anywhere with a similar claim
- b) The onus of proof of qualification has to be on the applicant.

She accepted these two points but after that had to part company with everything that was suggested saying it was difficult to prove when you have lived on Sark because, unlike other jurisdictions there are no social security numbers, centralised school records and other checkable local authority documents.

She went on to say that all the primary, secondary and tertiary documents suggested **could** show that someone had lived on Sark for the required number of years. Equally, they **could** show that you lived here for a short part of the year but were domiciled elsewhere for a large part of your time. Equally, they **could** show that whilst owning property on Sark, and paying all bills, a person didn't actually come to that property at all. She did not intend to apply that test to all the documents suggested now but gave a few examples of why these documents do not show what the DCC was suggesting they did:-

<u>Electoral roll</u>: A recent court case judged that five people (who some felt were not ordinarily resident) were entitled to be on the electoral roll, proving the suggestion that this should be accepted under the key criterion, ordinarily resident on Sark and not having this claim for anywhere else, is contradictory.

<u>A letter from the Constable:</u> She was Constable in 2003/2004 and can recall a number of people who had dealings with the Constables for various reasons. There were many others who had no dealings with the Constables but were here.

How could she be expected to write that letter for that year if she was requested to by a person who she did not know but who may well have been here.

<u>Personal capital tax:</u> This is paid if accommodation is available to us, regardless of whether we live in it or not, and regardless of whether or not we are ordinarily resident elsewhere.

20.2

20.3 Guy

20.4

20.5 Guy

Most of the secondary and tertiary documents simply prove that someone receives bills on Sark, **not** that they live here and **not** that they don't receive similar bills elsewhere. Some others, those that are not bills, are wide open to cronyism at best and corruption at worse. Looking further down the line, should the people of Sark and Chief Pleas decide at some point that enfranchisement of leaseholders is a good thing, then using the documentation as suggested, we will find that many people with little or no real connection with, or commitment to Sark will be able to buy any land or **any** available housing.

20.6

Another issue which is not addressed here is the question of whether or not housing qualifications are relinquished on departure from the island concerned. Jersey, for example, differentiates between Jersey-born people who have gained qualifications and those who have come from elsewhere, and gained qualifications. Those who are Jersey-born can go to live elsewhere and then return, retaining qualifications but those who come from elsewhere lose their qualifications once they have been away from Jersey for five years. She said she would like to see such an arrangement in Sark thinking it reasonable that people born in Sark should enjoy extra special privileges. This would strengthen what she believed to be a primary aim of the occupancy law - that of retaining reasonably priced housing for local people.

20.7

Appreciating the difficulties, she suggested that there should be some standardisation and this should be reflected by some basic formats for giving information by the applicant **and** the evidence given to support the application.

This would at least mean that everyone would be treated in the same manner and the process would be transparent. Supporting evidence could then show clearly precise dates. The Jersey government website is very clear about how one qualifies for housing status in that island. The Guernsey website has a very clear sheet entitled: Am I a qualified resident?

Both websites include the necessary forms and the Guernsey form of support for an application lists who can fill in the form (and these are, in the main, professional people who would not put their reputation on the line) and, also in the case of the Guernsey form, lists the penalties which are high and include a term of imprisonment not exceeding six months and a fine not exceeding level 5, which she believed was ten thousand pounds at the moment.

20.8

There is, she said, a better way, and it will involve work beyond the remit of the DCC and The Douzaine and that is to define ordinarily resident as the people of Sark, however Chief Pleas wish it to be, as long as it doesn't infringe anyone's human rights. The definition might include a number of days an ordinary resident should actually be here, posting their letters, buying their groceries, eating out at cafes...in short <u>living</u> on Sark and being a productive member of our community. We need this definition for so many things and it is interesting that Sir Norman Browse, in his observations on the Sark Election, notes that we use 272 days of being resident as the qualification for a candidate to be eligible to stand for election, but, as he observes, this is not enshrined in law.

20.9

She urged the DCC not to go down the route suggested by the details of this report but instead work with other committees, advice from other jurisdictions where there is a finite amount of land making housing qualifications necessary and the Law Officers of the Crown to define the term 'ordinarily resident' for virtually all Sark legislation. Only for tax purposes is it possible that a different definition might be needed and this is the case in other jurisdictions too.

20.10 Ventress20.11 Hunt

Endorsed Conseiller Guy's remarks Also endorsed Conseiller Guy's remarks.

20.12 Dunks

Said that trying to get the Law Officers to define 'ordinarily resident' was like trying to get them to define 'curtilage' and did not see how it would be possible to keep a daily register. The purpose of this list was to give people ideas of how they can prove residency and the level of evidence required. Any false information is covered under 'offences' in the new Law.

20.13 Hunt

Asked if it was possible to allow the community at large to advise on residency.

20.14 Dunks

Said this could be a way of supporting but not disqualifying a person and suggested support from, say, twenty people already on the list.

20.15 S. Williams

Thanked Conseiller Guy for putting so much work and thought into the matter and asked if she would be happy to let the DCC have a copy of her report so they could come back at Easter Chief Pleas with further suggestions.

20.16 Dunks Reminded the Assembly that, with the DCC hopefully bringing the Commencement

Ordinances to Chief Pleas at the Easter Meeting, this issue then becomes the

concern of the Douzaine.

20.17 Guy Replied that she would send her report to the Douzaine as well.

21 Sea Fisheries Committee Sark Sea Fisheries 2012

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21.1 Cocksedge Wished to add his thanks to Mr. S. Taylor for his contribution whilst serving on the

Sea Fisheries Committee.

Gave an update report on the end of the year saying that the weather during the last months of the year had hampered the number of days at sea for Sark fishermen. There had been a few catches of Bream and Red Mullet recorded in that time. Trips had been carried out to check that pots were cleared ready for the closed season and, apart from the odd pot jammed on the seabed that had been notified by the

fishermen, the area was clear of pots.

The licensing of boats for the 3–12 mile limit is well under way to start in February. It has been scrutinised by the Bailiwick Fisheries Management Committee of which Sark and Alderney are part. As such, the list of applicants has been gone through to ensure they were entitled to fish in this area.

For information, DEFRA is conducting a public consultation on Marine Conservation

Zones around England and this can be viewed on the website:

www.defra.gov.uk/consult/open and also www.marinemanagement.org.uk/evidence This shows interesting subjects such as the path of basking sharks around Britain and arial shots of algae blooms forming in the Channel.

Bache 21.5 Queried whether there was sufficient policing available for the 3–12 mile area.

Cocksedge Confirmed that the area was policed by Guernsey Sea Fisheries who also had authority in Sark waters.

22 **Development Control Committee Annual Report on Development Control**

22.1 Dunks Began by mentioning Mr. Chris Bateson who had served on the Development Control Committee for just under fours years having joined in January 2009

following the elections in December 2008. He said that Mr. Bateson had been a welcome member of the team, prepared to offer his opinion as and when it was needed. His forthright, no-nonsense manner was appreciated, in particular by

himself, as Chairman. His input would be missed.

22.2 The report gave a list of the work the Committee had done during the past year. He said that the Committee had featured in the usual attacks by the Sark Newsletter but, of late, the newsletter had gone as far to imply that the recent wave of unemployment on Sark was the result of lack of work which, in turn, was the result of the Committee's refusal of the application for a rebuild of Beauregard Hotel and the Micro Brewery, an opinion that the Manager of Sark Estate Management had

repeated recently in the Guernsey Press.

Conseiller Dunks suggested that the Editor of the Sark Newsletter spoke with the Manager of Sark Estate Management and asks, if there really is no work available, how come he has so many unfinished and un-started building projects which the Committee has already approved, including unfinished La Jaspellerie and the unstarted rebuilds of Clos de Pegane and Orchard Cottage to name just three.

22.3 Guy Asked how the framework for the new Development Control Law was proceeding. 22.4

Dunks Replied that it was currently with Advocate Helen Shorey at St. James' Chambers.

It was top of her list of priorities and he was expecting it to return to Sark later in

January for public consultation.

23 Public Health Committee Electro-Magnetic Radiation

23.1	Melling	As usual with information reports there is little more to bring forward. He confirmed that there has been 100% co-operation from those responsible for testing and Sark will receive copies of reports, tests etc. as and when they are conducted – 2012 test results will be received in the near future. It must be stressed these tests do not answer the question that was raised as they are taken close to the installations. So, using the 'close by' information received, it is the intention with the further consent of Chief Pleas if finance is needed beyond the Committee's budget, to introduce tests away from sites. To this end he expected to shortly receive a list of recommended agencies that are able to do this work. The Committee will then have to decide the way forward and get quotes for half yearly and annual tests to be undertaken.
23.2		This action is being taken because of the question originally raised in Chief Pleas

This action is being taken because of the question originally raised in Chief Pleas and the high level of concern amongst residents. He was amazed and shocked that some quarters had seen fit to 'have a go' and say 'why can you not leave well alone' there being obligations to provide cover using these installations. He went on to say that the Committee will provide the information and if professional advice shows a level of concern then he hoped that the Assembly would act and remove any offending equipment from Sark – there was a duty of care.

Expressed concern about mobile phones etc. and felt there was much to investigate other than masts alone. People were even looking at the possible disturbance in bird migratory routes because of electro-magnetic fields. He welcomed the investigation being undertaken feeling it was but a small part of what is needed.

Mentioned that he had a background in radio communications and welcomed the checks being made but had one concern. If radio communication systems are not the problem, it would be necessary to look elsewhere; so will the Committee look at other potential causes as well?

Explained that a great deal of work was being undertaken in Guernsey on emissions from installations. If issues from the installations are eliminated then it will be necessary to look elsewhere. The impression was that something was not quite right and perseverance was needed.

0² Closing Remarks

23.3

23.4

23.5

Ventress

Hunt

Melling

O.13 President of Chief Pleas – The Seneschal said it had been a pleasure to preside over all but one meeting in the thirteen years that he had been doing the task as Seneschal and President of Chief Pleas, which he had done to the best of his ability. He wished his successor all the best for the future and hoped the fifty hours per year assigned for the position would be sufficient.

Forthcoming meetings for Chief Pleas Members

EXTRAORDINARY (SPECIAL) MEETING - Wednesday 27th February 2013 at 12 noon

This Meeting will be presided over by the new Seneschal and will be held for the sole purpose of the Assembly electing its new President of Chief Pleas.

The programme of events for the day will be a ceremonial re-opening of the Assembly/Court Room and offices by the Seigneur at 11.30am, with a Court to swear in the new Deputy Seneschal at 11.45am, followed by Chief Pleas at 12 noon. When Chief Pleas concludes, the Court will re-form to swear into Office the new President of Chief Pleas.

EASTER MEETING - Wednesday 10th April 2013 at 10.00am

Agenda closes - Wednesday 13th March 2013 at 3.00pm

Papers distributed to Members before Wednesday, 20th March 2013

This meeting closed at 1.05pm

Minutes prepared by Caroline Robins (Assistant Secretary) 20th-24th January 2013

Seneschal and President of Chief Pleas

Greffier

Signed on 29th January, 2013

MEMBERS OF CHIEF PLEAS

Christmas Chief Pleas Meeting –16th January 2013

		Attending							
		Atte							
The S	Seigneur – J. M. Beaumont OBE	/							
	seneschal – Lt. Col. R. Guille MBE	/							
CONSEILLERS									
2	Mr. D.T. Cocksedge	/							
2	Mrs. H.M. Plummer	/							
2	Mr. D.W. Melling	/							
2	Mr. C.R. Nightingale	/							
2	Mr. A.P.F. Bache CMG	/							
2	Mr. E. Baker	Α							
2	Mr. S.B. Gomoll	/							
2	Mrs. D. Baker	Α							
2	Mr. A.G. Ventress	/							
2	Mr. A.J. Cook	/							
2	Ms. M.A. Perrée	Α							
2	Ms. J. Guy	/							
2	Mr J. Hunt	/							
4	Mrs. S. Williams	/							
4	Mrs. H. D. Fry	/							
4	Mrs. K. Adams	/							
4	Mr. R.J. Dewe	Α							
4	Ms. E.M. Dewe	/							
4	Mr. M.J Mann	Α							
4	Mr. A. Dunks	/							
4	Mr. A.C. Prevel	/							
4	Mr. P.J. Williams	/							
4	Mrs. R.E. Byrne	/							
4	Mrs. M. Mallinson	/							
4	Ms. C.D. Audrain	/							
4	Mr. C.N.D. Maitland	/							
4	Mr. R.W. Cottle	/							
2	Vacancy	_							

2 – Term of office ends in January 2015 A Apologies
4 – Term of office ends in January 2017 / Present

Caroline Robins, Assistant Secretary, 16th January 2013

The reports, to which these decisions refer, are shown in full on the website www.gov.sark.gg

and are also available from the Committee Office for a small charge per sheet.