



OFFICIAL REPORT

OF THE

EXTRAORDINARY MEETING

OF CHIEF PLEAS

OF THE

ISLAND OF SARK

HANSARD

Assembly Room, Sark, Tuesday, 17th May 2016

*All published Official Reports can be found on the
official Island of Sark Chief Pleas website www.gov.sark.gg*

Volume 2, No. 3

Present:

Deputy Seigneur

Dr R P Axton

President of Chief Pleas

Lt Col. R J Guille MBE

Prévôt

Mr K N Adams

Deputy Greffier

Mr G J Hamon

Treasurer

Mrs W Kiernan FCA

Constable

Mr P S La Trobe-Bateman

Vingtenier

Mr G Williams

Conseillers:

Sandra Williams
Hazel Fry
Karen Adams
Richard Dewe
Elizabeth Dewe
Antony Dunks
Paul Williams
Rosanne Byrne
Christine Audrain
Robert Cottle
Diane Baker
Edric Baker

Paul Burgess
Elsie Courtney
Colin Golds
Charles Maitland
Nicolas Moloney
Elizabeth Norwich
Roger Norwich
Helen Plummer
William Raymond
Arthur Rolfe
Christopher Nightingale
Anthony Ventress

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Extraordinary Meeting of Chief Pleas

Chief Pleas met at 7.00 p.m.

[THE PRESIDENT *in the Chair*]

PRAYER

The Deputy Greffier

ROLL CALL

The Deputy Greffier

The Deputy Greffier: There are 24 Conseillers, the Deputy Seigneur and the President of Chief Pleas present.

5

The President: I have apologies from Conseillers Blythe and Taylor.

I would just like to note for the record that this is the Deputy Greffier's maiden Chief Pleas appearance.

10 In accordance with Rules of Procedure, I would remind all present that mobile phones, cameras, recording devices and other electronic equipment is switched off now, less for those allowed to Chief Pleas Members in accordance with that Rule.

Business of the Day

1. Easter Meeting, 6th April 2016 – Matters arising

Matters arising from the Easter Meeting held on 6th April 2016.

The President: Agenda Item 1: Matters arising from the Easter Meeting. Are there any comments on the Easter Meeting? No.

2. Questions not related to the Business of the Day – None

Questions not related to the Business of the Day.

15 **The President:** We will then move on to Agenda Item 2: Questions not related to the Business of the Day. There are none.

**3. Finalising Electricity Price Control Regulation Subsequent to Consultation –
Policy and Performance Committee Report considered –
Proposition carried**

To consider a Report from the Policy and Performance Committee entitled ‘Finalising Electricity Price Control Regulation Subsequent to Consultation’.

Proposition

That Chief Pleas approve the sum of up to £8,000 to engage BW Energy for the purpose described in this report, it agrees the Finance and Resources Committee take all measures required to release said amount, and instructs the Chairman of Policy and Performance Committee to engage the services of BW Energy for the purpose set out in this report on behalf of Chief Pleas. Further it agrees that the PDT bring the resulting draft legislation to Chief Pleas for consideration in a timely manner.

The President: Agenda Item 3: to consider a Report from the Policy and Performance Committee entitled ‘Finalising Electricity Price Control Regulation Subsequent to Consultation’.
I would ask the Deputy Chairman, Conseiller Fry to introduce the Report, please.

20

Conseiller Fry: Thank you, sir.

You will all have had opportunity to read this Report, which explains why we have requested this Extraordinary Chief Pleas Meeting. You will also have seen additional information about BW Energy, showing why we consider them to be suitable to assist us in finalising the regulatory legislation.

25

Over the weekend, you will also have received an email from Mr David Gordon-Brown of Sark Electricity Ltd, suggesting that our experts and SEL’s experts work together. As a team at this very late stage, we have not had a chance to discuss this fully. We will do, but we are certainly not going to let it cause further delay to this process, which actually began in 2012, by failing to engage BW Energy now.

30

F&R were requested to confirm that the PDT had received proper legal advice on the engagement letter and standard terms and conditions for the work to be completed by BW Energy. They have done that.

In the engagement letter, we are proposing that Chief Pleas instruct the Chairman of Policy & Performance to engage the services of BW Energy. This had been the subject of much discussion. There have been some suggestions that it should be made available to all Conseillers, not just to Finance & Resources. This is somewhat surprising, as to the best of our knowledge, such a suggestion has not arisen before.

35

Our Law Officers, who have confirmed that the engagement letter and terms and conditions are fit for purpose, have advised us that this would be inappropriate. As a commercial arrangement, it should not be part of the political process. None of us are qualified commercial lawyers, whereas the Law Officers are, and we are confident that their guidance is sound.

40

We were challenged by one Conseiller about the fact that the top level domain name heads of agreement were in the public domain. Conseillers had not sought this. Their only concern was that it should have been checked by the Crown Law Officers as fit for purpose. It duly was.

45

Therefore the team puts this Report with its Proposition forward as a result of the consultation process.

The consultation brought to light the need for further specialist technical drafting, to ensure the legislation sets out clearly the independent role and function of the office of the Commissioner for everyone to see, so as to be fair and reasonable to both customer and supplier, irrespective of who that supplier is. It is essential that this is done in a manner that minimises the reason for dispute.

50

On the issue of human rights compliancy, one Conseiller asked for a simple letter or a statement made in Chief Pleas so that this point is clearly on record. Here is what Robert
55 Titterington, the Director of Legal Drafting told the team:

Thus far no legislation for such a regulatory regime for Sark has been prepared. When it is, then in my view at least, provided it follows a model that is recognised in the electricity generation and supply industry, the chances of a successful human rights challenge will be low.

As has been explained to us, when the Law Officers of the Crown submit the Projet for Royal Sanction, they also submit a report to the UK authorities which will summarise any relevant human rights issues that may engage and will in effect certify whether or not the provisions of the Projet are human rights compliant. This is in accordance with standard practice for any
60 Projet approved by one or more of the Bailiwick legislatures.

We are all very aware of how long this process has been going on for, and we believe the time has come for us to move it forward without any further delay.

Thank you.

The President: Any questions or debate, please? Conseiller Rolfe. Anybody else? Conseiller
65 Burgess.
Conseiller Rolfe.

Conseiller Rolfe: Mr President, my comments here are not so much with the regulatory
70 process that is being proposed, but about the decision-making process that we are going through this evening.

I had asked on several occasions to see a copy of the proposed contract between Chief Pleas and BW Energy. On *several* occasions I have asked for that, particularly at the Policy Development Group and also at the Policy & Performance Committee, in whose name this
75 Report is coming to you.

The PDT has refused to let us see it on the basis of commercial sensitivity. I think it is questionable that there can be commercial sensitivity in a contract between a government and a company over a lump sum, such that members of the Policy & Performance Committee are not allowed to even see the contents of that contract.

80 As a Member of Chief Pleas, I see it as my responsibility to spend public money with as much information available as I need, and that is what I have asked for. It is quite disgraceful for the PDT to refuse to make that information available to a Member on request.

I understand that the proposed contract has been sent to members of the Finance & Resources Committee. Well, what are we to make of that? The PDT feels that F&R can be
85 trusted with commercial sensitivity, but P&P cannot!

If I may continue, it is not the PDT's responsibility to decide which Committee it sends its information to. It really needs to be decided by, first of all, the PDG; but as I say, this Report comes to you from P&P, and P&P have not been afforded the opportunity to see the contract.

90 That is except, of course, for P&P's Chairman and Deputy Chairman, who both also happen to be members of the PDT in question.

And who is to sign the contract on behalf of CP? The Chairman of the PDT has just explained to us that the Chairman of P&P will sign it on behalf of CP, in his role as Chairman of P&P – his Committee having been refused sight of the contract by the PDT, of which he is also a member. I invite Members of this House to understand just how incestuously corrupt this will be seen by
95 people outside this Chamber – and I must say, I feel some of that myself.

The Chairman of the PDT has asked me if I trust the PDT and Law Officers, as if my own sort of contribution to this might be irrelevant. Yes, of course, I do – but I must say that the question demonstrates her lack of understanding of due process. It is not the PDT alone that decides to spend money; nor is it the Law Officers who vote money either. I think it is impertinent of the
100 Law Officers to suggest what papers we can and cannot see. It is those in Chief Pleas who must

be satisfied that we have the information available because the responsibility for spending this money lies with us, and with us alone.

105 Because of the refusal of the PDT to allow us to see the information I have requested in order to make a valued judgement on voting £8,000, I will vote against this Proposition, and I will also ask for a named vote.

The President: Thank you.
Conseiller Burgess.

110 **Conseiller Burgess:** I have a few concerns myself – like Arthur’s a little bit, but my concerns are in the sense that we are talking about spending £8,000 on these experts that will give us information into writing legislation that we can then take forward to a Commissioner who will then talk to either the Sark Electricity or their representatives.

115 It concerns me, with the regulation, because it is going to cost us a lot of money, but just going back slightly, why can’t these experts talk to each other?

I think the PDT has gone so far, as they said, for many years, I think they have got it blinkered now, and they just want to get it over and done with. I think that the experts should be allowed to sit down and talk this over, without having to go through legislation.

120 One point I will bring up, to do with legislation – if you bear with me a second while I just bring it up on my iPad – Mr Watson, the MD of Guernsey Electricity: speaking to him, the Office of Utility Regulation in Guernsey were acting with good intent when they started out their process of looking at their electricity, and I am afraid they got it really wrong, because they set their figure very low for the Electricity Company. For seven consecutive years, Guernsey Electricity lost money.

125 It goes on to say that the Office of Utility Regulation actually charged the company, or the States of Guernsey, £180,000 for regulation and their internal costs were just over £420,000, which totalled almost £600,000. Can we afford that? And bear in mind, there are 60,000-odd people in Guernsey – that split between them is not a lot. There are 600 here, which is a lot less. If we get it wrong, it could cost this Island a fortune.

130 So I would like to say, could we not have the experts talk to each other first?
Thank you.

The President: Anybody else? No?

135 If you would like to sum up then, Conseiller Fry, then we will go to the vote, as in the Report.

Conseiller Fry: Well, as far as I am concerned, I would have been very happy for Conseiller Rolfe to see every paper he wanted to see, but I feel that we have to act on advice from our Law Officers, and by doing so, we are under their protection, as it were.

140 I think, should Conseiller Rolfe or any other Conseiller have seen this contract, and said, ‘Well, I don’t like that bit’, are they to go above the heads of our Law Officers? I find that very anxious-making, to be honest, and I do feel that by moving with what our Law Officers recommend, we are protected. But if we go away and do our own thing, we are losing that covering as it were. I think, as I have explained, in answering Conseiller Burgess, we have been in this position, we have been talking about regulation for practically five years, and the first
145 mention we got of these experts meeting with our experts was on Saturday, and that really has not given us sufficient time to discuss this, and we are absolutely at a point where we will seek to hire the two gentlemen whose details I hope you have had a chance to read, and to employ them to move forward. We will discuss every aspect of this with them, including Mr David Gordon-Brown’s letter.

150 So that is all I have to say. I would sincerely hope that this Proposition gets voted through, because I would imagine every single Conseiller is sick and tired of hearing about it.

Thank you very much, sir.

The President: I have had a request for a named vote. Therefore we will vote on the Proposition, which reads:

That Chief Pleas approve the sum of up to £8,000 to engage BW Energy for the purpose described in this report, it agrees the Finance and Resources Committee take all measures required to release said amount, and instructs the Chairman of Policy and Performance Committee to engage the services of BW Energy for the purpose set out in this report on behalf of Chief Pleas. Further it agrees that the PDT bring the resulting draft legislation to Chief Pleas for consideration in a timely manner.

155 Deputy Greffier.

There was a named vote.

Carried – Pour 20, Contre 4, No Vote 0

POUR	CONTRE	NO VOTE
Conseiller Sandra Williams	Conseiller Adams	None
Conseiller Fry	Conseiller Burgess	
Conseiller Richard Dewe	Conseiller Rolfe	
Conseiller Elizabeth Dewe	Conseiller Ventress	
Conseiller Dunks		
Conseiller Paul Williams		
Conseiller Rosanne Byrne		
Conseiller Audrain		
Conseiller Cottle		
Conseiller Diane Baker		
Conseiller Edric Baker		
Conseiller Courtney		
Conseiller Golds		
Conseiller Maitland		
Conseiller Moloney		
Conseiller Elizabeth Norwich		
Conseiller Roger Norwich		
Conseiller Plummer		
Conseiller Raymond		
Conseiller Nightingale		

The President: I declare that the Proposition is **carried** – 20 votes in favour, 4 against.

**4. Slaughterhouse Waste Disposal –
Agriculture and Environment Committee and Public Health Committee –
Joint Report –
Proposition carried**

To consider a Joint Report from the Agriculture and Environment Committee and the Public Health Committee entitled 'Slaughterhouse Waste Disposal'.

Proposition

That the expenditure of up to £40,000 be approved by Chief Pleas for the purchase of a suitable Incinerator, associated equipment and incidental costs, for the purpose of disposing of slaughterhouse waste, other animal remains and general waste.

160 **The President:** We move to Agenda Item 4: to consider a Joint Report from the Agriculture and Environment Committee and Public Health Committee entitled 'Slaughterhouse Waste

Disposal', and I would ask the Committee Chairman, Conseiller Paul Williams to introduce the Report and the handout as given to Conseillers and officers just ahead of the meeting.

I will arrange for the handout to be posted onto the website for historical purposes, because of course, the handout that you have in front of you has an altered Proposition, which we will be voting on.

Conseiller Williams – yes, Conseiller ...

Conseiller Nightingale: Can I declare an interest, sir, please?

The President: You may declare an interest. Is it a direct pecuniary interest?

Conseiller Nightingale: Yes, I suppose so, yes.

The President: Yes, it is. Right. Anybody else to declare an interest? No? Just Conseiller Nightingale.

So Conseiller Nightingale will leave the room, unless there is a vote for him to stay but not take part in any vote or debate that goes on.

Conseiller Fry, are you proposing that he remains?

Conseiller Fry: Yes.

The President: Those in favour; those against. **Carried.**

You may stay but not take part in the debate, unless you are giving technical advice, and not vote. Thank you.

Conseiller Paul Williams.

Conseiller Paul Williams: Thank you, sir.

I would like to thank Conseiller Cottle for help in compiling this Report.

This proposal is being brought to Chief Pleas at short notice because the method used until recently to dispose of slaughterhouse waste is no longer available. An informal agreement between a landowner and the slaughterhouse operator has ended and an alternative is needed.

After the brief paper in tonight's Agenda was written, a meeting was called between Agriculture, Public Health, Douzaine and Finance & Resources Committees to discuss what should be done.

The amount of waste material produced from the processes at the slaughterhouse had been looked into. I will not go into too much detail about the by-products – some of us may have just had our dinner! – but after an average mixed process of lamb, pig and cattle around half a tonne or 500 kg of material has to be disposed of. Also occasionally, whole animals have to be disposed of at end of life, including the large ones, which are horses and cattle.

Possible alternatives available for disposal were set out for consideration. Past methods can no longer be used, for legal and environmental reasons. Even without legislation prohibiting tipping either on land or at sea, it would be wrong to consider these for the present or future, so this was quickly ruled out.

Burying of some waste is not currently illegal here, but very careful consideration of possible pollution of any nearby water source ... This would be far from ideal, but could be a short-term solution while implementing a longer-term solution.

For information and comparisons with elsewhere, in the UK it is permitted to bury pet animal remains, including horses, but not remains of animals produced for food consumption. There are exceptional circumstances where that is permitted, including in remote UK locations; the Isles of Scilly and Lundy Island are mentioned.

Shipping of animal waste to Guernsey was also discussed. Discussion with Environmental Health in Guernsey and Sark Shipping revealed that a dedicated chiller container would be

needed at the slaughterhouse; a chiller trailer for transport from the slaughterhouse to the harbour; and a dedicated chiller container on the cargo vessel; and very careful handling during transfer between containers to avoid contamination of other cargo.

215 Further to that, costs were obtained from the Guernsey Abattoir for incineration. These proved very high. For instance, disposing of a whole cattle carcass would cost £300 currently. Added to shipping costs, it was felt this was prohibitive and unaffordable for Sark farmers.

220 This left incineration, and after discussion, the consensus of the meeting was that incineration was the best solution and should be looked at further.

Discussion about a mobile incinerator ended with the conclusion that finding suitable locations to operate one would be difficult. The size of mobile models probably was not big enough, and there was no real benefit in using the incinerator around the Island rather than putting the waste in suitable leak- and smell-proof containers and taking them to the incinerator.

225 Therefore the decision was to look at a permanent site for a fixed incineration of sufficient size to burn both batches of slaughter waste and, less regularly, disposal of whole cattle and horses.

230 The two options identified were Les Laches sewage treatment site, or the Harbour Quarry site. Both have advantages and disadvantages. Both would operate best if housed in some kind of shelter for operator comfort and safety and also for protection of the equipment. An on-site electricity and diesel supply is needed and ideally a water supply for cleaning. Any Development Control permissions required would be sought for the installation.

235 Members of the Committees have done research and contacted suppliers to find out what is available, what options are offered and importantly prices and running costs, particularly diesel fuel consumption. Conseiller Dunks has collated this information to allow comparison: I would like to thank him for his work.

Four companies that have suitable products and experience have been looked at so far.

240 We have not been able to select the best option from a particular supplier yet, but it is considered that the burning chamber should be large enough take a whole carcass. The burning rate should be fast enough to incinerate a normal load in 10 hours, and the fuel efficiency should be as good as possible.

245 The incinerator should also be as manpower efficient as possible. Loading should not require manual lifting of heavy containers, and once loaded the burning process should be automatic. Once the door is shut and the burning started, then it should run automatically until complete, and then shut down. Once cooled down, ash removal would be done, leaving 3% of the original weight.

250 Modern design with the secondary combustion chamber would give very clean burning. If a large enough model is chosen for whole animal disposal, then there is the potential to use it for burning other waste as a back-up or in addition to the current Island incinerator.

255 As a guide, most incinerators looked at by us burn at a quoted rate of 50 kg per hour, using in the order of 10 litres of diesel per hour to achieve this. That would burn a 500 kg load in 10 hours. Size of the burning chambers are between 1.2 m³ and 4.2 m³, and the final decision depends on considering all the information available. That involves cost, delivery, availability, servicing options, site requirements and further discussion with the supplier to satisfy ourselves that they will provide a suitable reliable product with adequate product training and after-sales service.

260 There will also be cost involved in site preparation, which may involve laying down a concrete slab of suitable size and thickness, constructing a basic shelter structure for it to be housed under, and purchasing suitable containers to store and transport the materials, sealed against leakages and smells.

Tipping equipment is also available to make loading the incinerator cleaner and less physically demanding. There is a table that you have, showing information on the models

265 considered currently, with some indication of cost, but these are not finalised and could be open to negotiation.

Currently we are not in a position to decide which is best suited, but in order to make the decision, it is felt that up to £40,000 should be requested as a Capital Expenditure Request, so that further requests are not needed following this. That would include the site construction needed and other equipment for the operations and delivery to Sark.

270 Further information will be reported once a decision is made for a particular purchase, and will be reported to the Chief Pleas Midsummer Meeting, all subject to the Proposition being approved this evening.

There is a slight addition to the Proposition, sir, which I will read:

That the expenditure of up to £40,000 be approved by Chief Pleas for the purchase of a suitable Incinerator, associated equipment and incidental costs, for the purpose of disposing of slaughterhouse waste, other animal remains and general waste.

Thank you.

275 **The President:** Let me just clarify for you the change to the Proposition that you have in the handout. On the last line, after 'slaughterhouse waste' insert a comma and delete the word 'and'; and after 'animal remains' delete the full stop and insert 'and general waste'. So that will be the Proposition you will vote upon at the appropriate time.

280 Any discussion or debate, please? Conseiller Ventress; Conseiller Cottle.
Conseiller Ventress.

Conseiller Ventress: I must say, this is an absolutely excellent Report that we have had, both written and verbal, but what I feel is that we must take this as being the first part of a general waste strategy. As we had in the last Easter Chief Pleas, we asked for a shed, which has been deferred, I think we will find that this will become also essential for the ongoing waste sorting, storage, and above all, for the convenience of the workers.

That is it, thank you.

290 **The President:** Conseiller Cottle.

Conseiller Cottle: Thank you, sir.

Carrying on from where Conseiller Ventress mentioned the shed, I spoke at Chief Pleas at Easter about that and felt that we had not been given enough detailed information at the time to consider properly, as part of a waste disposal strategy, where a shed came in that strategy. So that was why I suggested it was deferred, and that is still the position. I understand work is going on with developing the complete waste strategy and the need for a suitable building for that to be housed in when the time comes that there is something to present to Chief Pleas. I would support that, when that Proposition is brought, if we have the correct information to base our decision upon.

300 It is unfortunate that we have to consider this tonight at very short notice, with a Report that has come to you on the afternoon – or some of you have just received it this evening at the start of the Meeting – but it is a situation that is quite critical for the ability of the Island to be able to carry on farming livestock and slaughtering and producing high-quality meat on the Island, so I feel this is something that we have to address. As a member of the Finance & Resources Committee, I would consider this is a correct use of the reserves that the Island has built up to request a capital expenditure set piece of money put aside for such an occasion. On this occasion I think it is justified in coming in this manner at short notice to support this request.

310 One other thing I should mention: under section 61 of the Reform Law, any unforeseen expenditure currently had to go to the Office of the Lieutenant Governor seeking approval at such time. So if this Proposition is carried tonight, then I will, as Chair of the Finance Committee,

be putting that Proposition to the Lieutenant Governor at the correct time, with all the information that is needed to support that, to request that he supports our Proposition in Chief Pleas as we would expect Chief Pleas' decisions to be respected.

315 Thank you.

The President: I would just let you know that with any request for unforeseen expenditure which has not been budgeted for, I write the Lieutenant Governor with a copy of the Minutes, as it was in the old days, and a copy of *Hansard*, so that he has the information to hand, he can
320 look at the debate and he can make that decision.

I think under the circumstances, there would be no issue with you writing separately to the Office of the Lieutenant Governor, putting your reasons why you feel this should be supported.

Lieutenant Governors have not traditionally said no. They recognise that Chief Pleas consider and debate issues, and vote money through. Whilst they may come back occasionally with a
325 question, they will generally accept the precedence of Chief Pleas in disposing of money sensibly for the Island.

Just for your information, while I am talking about that, the sum of money voted through at the Easter Chief Pleas has literally gone this week with a copy of *Hansard*, asking for approval for that expenditure.

330 Any other debate please? We have had Conseillers Ventress and Cottle. No?

Then we will move to the Proposition, which I will read again:

That the expenditure of up to £40,000 be approved by Chief Pleas for the purchase of a suitable Incinerator, associated equipment and incidental costs, for the purpose of disposing of slaughterhouse waste, other animal remains and general waste.

Those in favour; those against. **Carried.**

I have no closure remarks, therefore the Meeting is closed.

Deputy Greffier, the Grace, please.

PRAYER

The Deputy Greffier

Chief Pleas closed at 7.40 p.m.