MINUTES

Point and Sandwick Development Trust

5.30pm 27 August 2014 at Café Roo

Present: Duncan Mackay, Kenny Dan Macdonald, Andrew Mackenzie, David Taylor, Liz Chaplin, Eddie MacGregor, Donald MacRitchie, DJ MacSween (General Manager), Calum MacDonald (PSP), Eleanor Garty (Woodland Trust). Apologies: Scott Connor, Angus McCormack, Nan Morrison, Jenny Pain

1. **Minutes and Matters Arising**

Duncan Mackay took the Chair. Calum MacDonald apologised that there no minutes from the July meeting. It was agreed to take them at the next meeting.

2. **Woodland Trust Discussion**

Eleanor Garty explained that there was a new woodland grant scheme proposed for common grazings and also for in-bye croft land for areas as small as ¼ ha. The Woodland Trust (WT) had had lots of requests for assistance from the Western Isles but the problem was that: a) the paperwork required to get grants is very onerous; and b) there was a funding gap between the initial cost outlay and reimbursement through grants.

WT was therefore looking to participate in a new scheme that would address both these issues. Their other partner was the Forestry Commission, and they were also looking to partner with local community groups such as PST. The Board asked a number of questions about how the scheme would work, what partnership support WT were looking for and how much it would cost. Eleanor replied that the core funding for tree planting would be provided by the Commission and WT but it would be helpful if communities could support in awareness raising campaigns and also in helping to fund a local project officer to deliver the scheme locally. If this post was full time it would cost around £60k including office costs.

The Board agreed that the WT project could fit well with the croft forestry objectives in the PST Community Plan and that they would be interested in providing both financial support and office space for a project officer, but that they would prefer the officer to be formally employed by WT. PST funding should be available after September 2015. They asked Eleanor to provide a costed proposal before the end of this year for the Board to make a final decision on. This was agreed and the Chairman thanked Eleanor for her presentation.

3. **Amendments to Articles /**

DJ MacSween circulated the proposed changes to the Articles as drafted by Anderson Macarthur. It included: a) a change in the number of retiring directors at each AGM to 3, with the option of re-election; b) a change in the quorum to be equivalent to half of the elected Directors; c) a change in the name of the organisation to Point and Sandwick Trust instead of Point and Sandwick Development Trust; d) and the formal inclusion of Plasterfield and Steinish within the scope of the Trust membership area.

These changes were agreed by the Board and it was agreed to recommend them to the AGM provided they had been approved beforehand by Santander Bank.

4. Point and Sandwick Power Report

Calum MacDonald gave a report on the Beinn Ghrideag wind farm. It had been decided to start work on Monday 11th August, ahead of financial close, because any delay past the 11th would have put the completion date of 20th December in jeopardy, and any slippage of completion into 2015 could have resulted in us losing the allocated turbines and having to wait till Spring 2015 for a new delivery.
As the lease docs had now been signed by both the Stornoway Trust (ST) and LWP, and as we had permission for early entry onto the site, it was felt safe to start construction ahead of financial close. It had been anticipated that the Lease docs would be delivered to us in good time for financial close on 20th August.

Unfortunately, however, a major new problem had arisen. It began when, on Tuesday 12th, our contractors, RJ Macleod had tried to move 3 diggers to the BG site via the old Pentland track. They were unable to do so as it was too waterlogged at the west end of the track (the end that we plan to upgrade under the lease). The site manager, Kevin Smith, therefore sent two of the diggers to the BG site via the A858 instead and kept one digger at the west end of the track creating ditches to drain the water.

On the 14th we had notification from the Stornoway Trust (ST) that they had received complaints from Pentland Road wind farm (Pentand). Pentland were complaining that we were making use of the Pentland track without coordinating our activities with them. They also complained that they had no redress if we damaged their cables during our work.

We responded to the ST that there were no grounds for this complaint as: a) we were simply exercising our rights under the lease and we were not interfering with Pentland's use of the east end of the track in any way; and b) that we were fully insured (as required by our lease) to cover any accidents, damage or loss caused by our works to any 3rd party, including Pentland.

On the 15th, Angus McCormack wrote an email to Pentland's Peter Crone to reassure him of the above and he followed it up with a phone call. As a gesture of goodwill, Angus gave him RJ Macleod's phone number so that Pentland could co-ordinate any traffic on the track with them. Unfortunately, Peter Crone instead took advantage of the phone numbers to call RJ Macleod and told them that they should stop all work on and use of the track as we (PSP) had no lease and therefore no rights on it.

On Monday 18th August, Angus McCormack and Calum MacDonald attended a meeting at the ST office convened by Mo Murray, Chair of ST. Also attending were Iain MacIver, Factor ST, Maggie Mackay, solicitor for ST and, by conference call, Peter Crone of Pentland and Aileen McCallum, our property solicitor from HBJ.

Peter Crone stated that in his view PSP had no right to be on the track and that a legal agreement was needed to manage traffic on and the use of the Pentland track and also to give Pentland protection from any damage to them that might be caused by our works. Our solicitor explained that both these issues were already fully covered by the Lease and Deed of Conditions that we had signed with the ST, and also that our insurance policy included indemnity for any damage or loss we caused to 3rd parties. Despite this reassurance from our solicitor, Mo Murray stated that the ST would now not release the Lease and the other supporting documents to us until we had reached a formal agreement with Pentland. Mo believed that this could be done easily within a couple of days.

Our solicitor pointed out that a new legal agreement would take much longer than a couple of days as it would have to be cleared by the lending bank's solicitors. This would mean that we would miss the scheduled financial close date of the 20th and the whole project would be plunged into uncertainty. As a compromise, Santander Bank offered that if the ST released the docs to allow financial close, they (the Bank) would ensure that an agreement would be reached afterwards. The ST Chairman was adamant, however, and refused to release the Lease docs.

On Tuesday the 19th, we heard from Santander Bank that Pentland wrote a letter of complaint to them about us, complaining about us and saying that they had the ability to make difficulties for our project unless we cooperated with Pentland and again questioning whether our insurance policy was adequate. In response, Angus McCormack and Duncan Mackay went to see the Trust Chairman to show him our insurance documentation and the 3rd party cover up to £10m included in it. The ST Chairman responded by asking how he could be sure that we had paid our premium!

On Friday the 22nd, the ST solicitor wrote to us informing us of a formal decision by the ST Renewables sub-committee requiring us to enter into a new agreement with Pentland covering the two issues of track use co-ordination and indemnity for damages to Pentland.

Without such an agreement, the solicitor stated that ST would hold onto the lease documents and not release them to us.

Faced with this apparent impasse, Santander Bank advised us to try and seek agreement with Pentland rather than to challenge ST's rights to hold onto the lease. They offered to act as 'honest broker' and to help draft the new agreement based on the formal motion passed by the ST sub-committee. That agreement is now being drafted by the bank solicitors.

Having heard Calum MacDonald's report, the Board discussed the options for PSP. It was agreed unanimously that Pentland's real agenda was not the proposed new agreement but, rather, a fresh attempt to get the £250,000 they had failed to get from PSP last year. The new agreement was just an excuse to force us to pay and the ST was very naïve in not recognising this. However, given the ST's attitude, it was felt that the best approach in the circumstances was to accept Santander's offer to draft the new agreement and to hope that the ST would eventually see Pentland's real agenda and agree to release the docs. That was deemed to be the preferred outcome. If that failed the two alternatives were to use legal action to get ST to release the docs or else to pay Pentland the sum demanded. At the end of the day, the choice between these two options would be determined by the Bank's views.

It was agreed to hold another meeting of the Board after the draft agreement was presented to Pentland and the choice between the alternatives above was clearer.

5. **General Manager Report**

DJ MacSween tabled his report and answered questions on it.

6. **AOB**

1) Hebtember. A funding request had been received from Hebtember, a new festival to promote local arts, crafts and, foods and other products throughout the Western Isles in September in a bid to extend the visitor season for local businesses. The organisers were VisitScotland, Proiseact nan Ealan, CnES, and An Lanntair. It was agreed that this fitted within the Board's Community Plan commitment of £20k pa to island arts and culture but that it was too early to commit funding as we still did not have financial close. It was agreed to allocate £1,000 of start-up funding to the Hebtember festival but that payment would be conditional upon Beinn Ghrideag achieving financial close.

2) AGM Date. Given the delay to financial close, it was agreed to re-schedule the AGM to Friday October 24th.