

STATUTORY MEETING

Minutes of the STATUTORY MEETING of the Joint Committee held on **Wednesday 25th October 2006**, at the offices of the Joint Committee, 6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk, PE30 2JG at 1030 hours.

PRESENT

Councillor R Bellham
Councillor D A Baxter
Cllr A H Turner JP
Councillor S F Williams
Dr B Connell
Councillor C Joyce
Councillor R A Ward
Councillor D Wood
S Coppolo
R Garnett
I Large
T Pinborough
C A R Southerland
M Yates

Chairman – Suffolk County Council
Vice Chairman - Norfolk County Council
Lincolnshire County Council
Lincolnshire County Council
Norfolk County Council
Norfolk County Council
Suffolk County Council
Suffolk County Council
)
)Defra Appointees
)
)
)
)

M R Mander

Clerk and Chief Fishery Officer

C M Hurley
J C Stoutt
D Vaughan
C Donnelly
C Meakin
S.Sealy

Finance Officer)
Marine Environment Officer)
Deputy Clerk & Fishery Officer)
Natural England)
le Strange Estate)
le Strange Estate)

Present by
Invitation

APOLOGIES

Apologies for absence were received from Councillors Bakewell (LCC) and Rye (NCC) and Messrs Brewster, Tomlinson and Williamson (Defra Appointees).

CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Councillor Joyce, who had replaced Councillor Morrey as a Norfolk County Council representative.

DECLARATION OF MEMBERS PERSONAL INTERESTS

Mr Southerland declared an interest in item 11 on the agenda.

Mr Garnett declared an interest in items 10 and 11 on the agenda.

Further discussion would take place regarding personal interest under item 6 on the agenda.

Agenda Item 8 would be discussed at the end of the agenda as it was considered it should be discussed without members of the public being present.

ST06/43 MINUTES OF THE STATUTORY MEETING OF THE JOINT COMMITTEE HELD ON 26th JULY 2006

Members agreed the minutes were a true record of proceedings.

ST06/44 MATTERS ARISING

ST06/31 TOPE BYELAW: Mr Pinborough questioned when confirmation of the Tope Byelaw would be received. The Clerk advised that he had received confirmation by email that the byelaw had been confirmed but the date on which the byelaw would be in force had not be advised.

ST06/45 CLERK'S REPORT ON THE MEETING OF THE FINANCE AND GENERAL PURPOSES SUB-COMMITTEE MEETING HELD ON 11TH OCTOBER 2006

The Clerk advised members that this meeting was the first opportunity for members to see if the provisional forecast for estimates was in line with that expected by the County Council Treasurers Departments. These estimates had been based on only 5 months actual expenditure so it was possible that further savings could be made. However, it was also apparent that a decision on whether or not to keep ESF Protector III or to replace her, would need to be made in order for more accurate figures to be provided. The age of the vessel meant that if the option was taken to retain her it would be necessary for some major work to be carried out to ensure the vessel was fully fit to continue in service for several more years. It was agreed that a meeting of the Vessel sub-committee should take place prior to the next F&GP meeting in January.

The Clerk also advised that the provisional figures indicated a levy increase for 2007/2008 of 5.3%. Norfolk County Council representatives had informed the meeting that this would not be acceptable but an increase of around 2.5% would probably be look at favourably.

Councillor Williams felt that before members could agree to a levy for the forthcoming years the Finance Officer should provide a Fundamental Review of the Committees finances and also a proper Business Plan. Councillor Turner advised that a member of LCC may be able to assist with this.

It was Resolved to agree to the Preliminary Provisional Estimates for the period 1st April 2007 to 31st March 2008 with the proviso that they be reviewed and revised prior to presentation of the Provisional Estimates to the F&GP Sub-Committee at their meeting in January 2007, and that a Fundamental Review be presented to the sub-committee. It was also resolved to note the Preliminary Forecasts of Estimates of Expenditure for the period 1st April 2008 – 31st March 2010.

Proposed: Councillor Williams

Seconded: Councillor Turner

ST06/46 FINANCE OFFICER'S REPORT ON PAYMENTS MADE AND MONIES RECEIVED DURING THE PERIOD 15TH JULY – 13TH OCTOBER 2006

Questions were raised as to why expenditure on the vessels was so much higher during month 4 than month 6, and also why vehicle operating costs were so different during months 5 and 6. The Finance Officer advised that these payment were made as and when the invoices came in, for instance there may have be road fund renewals in one month which obviously would not be paid again the following month.

Mr Pinborough enquired what Gen Est stood for, it was explained this was expenditure relating to phones, stationery and general running costs.

It was Resolved to accept the Finance Officers report on payments made and monies received during the period 1st April and 14th July 2006 and approve payments of £321,524.13 and receipts of £43,442.45.

**Proposed: Councillor Williams
All Agreed**

Seconded: Councillor Turner

**ST06/47 CLERK'S REPORT ON THE SPECIAL MEETINGS OF THE WASH
MANAGEMENT SUB-COMMITTEE HELD ON 23RD AUGUST 2006 AND 6TH
SEPTEMBER 2006**

The Clerk advised that during the last quarter it had been necessary to hold special meetings of the sub-committee as the legality of the committee's actions had been questioned. Having sought legal advice the Clerk had been informed that although Regulation 2 of the WFO was not well worded it currently did not allow the Committee to reduce the daily quota applied to the cockle fishery. As the Appropriate Assessment submitted to EN for this fishery had been based on the reduced daily quota the Clerk felt it necessary to suspend the fishery until a further Appropriate Assessment was carried out as fishing at the higher daily quota could have had a significant effect on the fishery. It was therefore agreed to submit a further appropriate assessment and also to apply to the Minister for Regulation 2 to be amended to allow the daily quota to be reduced.

It was also necessary to bring to the sub-committee attention a letter from the Commanding Officer of the bombing range which stated that fishing within the range was in breach of MOD Health & Safety. The Clerk also sought legal advice on this matter and it concurred with the Clerk's opinion that ESFJC where managers of the fisheries and were not responsible for Health & Safety. Health & Safety was a matter between MOD and the fishermen. The only problem which ESFJC would need to overcome was how the shellfish surveys in these areas could be carried out using the research vessel.

Having received agreement from English Nature that the fishery could continue using the increased daily quota it was agreed the fishery should resume. Encouragingly all members of the industry agreed to a gentlemen's agreement to continue fishing at the lower daily quota. Only two incidences of this quota being breached was observed by the ESFJC Officers. The processor who received the cockles from the largest amount presented a cheque to the RNLI for the value of the additional catch.

Members Agreed to receive the report.

Proposed: Councillor Williams

Seconded: Councillor Ward

**ST06/48 CLERK'S REPORT ON DECLARATION OF INTERESTS IN ACCORDANCE
WITH THE JOINT COMMITTEE'S CODE OF CONDUCT FOR MEMBERS**

A complaint had been received regarding two members of the Committee, who were alleged to have voted on an item in which they had a prejudicial interest. The Clerk had referred back to Defra for further guidance on how their members should operate which members of the Committee. Unfortunately ESFJC being a joint committee, more than one constituent council pays the levies, the Defra appointees are not recognised as 'co-opted' members and do not fall under the remit of the Local Government Act and are therefore not legally obliged to abide by it. The Committee can only request that Defra appointees refrain from voting when they have a direct interest. However, whilst the members actions cannot be challenged the decision made by the Committee could be.

With this in mind the Clerk had examined how the voting went regarding the item in question and was satisfied that the votes made by the two members in question would not have affected the decisions made.

There obviously remained some controversy regarding declarations of interests and voting by Defra appointees and Councillors Baxter and Williams both felt the matter should be referred to the Standards Board for England for a final ruling to be made.

The Clerk advised that Defra were hoping to address the matter, possibly through the Marine Bill. However, he was still of the opinion that Defra appointees were on the committee to provide information and they should be permitted to discuss items on the agenda but refrain from voting when they have a prejudicial interest. Mr Pinborough added that when the matter had been raised the previous year members had been told if an item affected them solely or on a personal level they could not vote but if the matter was about

local or national interests then voting was permitted. The agenda item in question had been a national matter and therefore the members should have been permitted to vote.

Referring the item in question Mr Coppolo requested that it be minuted that he was not, and had not been for several years, a member of the NFSA.

After further discussion members Resolved to agree to the report and to write to the complainants advising them that no further action would be taken regarding the allegations.

Proposed: Councillor Williams

Seconded: Councillor Turner

All agreed

Mr Pinborough and Mr Copplo did not take part in the vote

ST06/49 CLERK'S REPORT ON DEFRA'S CONSULTATION TO INCREASE THE MINIMUM LANDINGS SIZE FOR LOBSTERS

Members were provided with the background to this item. Defra had consulted on a national ban on the landing of berried lobsters and had chosen not to proceed with the legislation as they felt it would be difficult to enforce. The Clerk was optimistic that in the very near future the Committee's Research Officers would be in a position to announce that an inexpensive method of proving that berried lobsters had been scrubbed at sea prior to landing was available.

Having chosen not to pursue this legislation Defra were looking into increasing the Minimum Landing Size (MLS) for lobsters as this would be easier to enforce as well as having an affect on conservation. The proposal was to increase the MLS from 87mm to 90mm carapace length.

Within the ESFJC district there are two distinct lobster fisheries, the inshore fishery and the offshore fishery. The inshore fishery on the North Norfolk coast generally attracted smaller lobsters as the larger lobsters migrated offshore. Officers believe that it was likely that a similar process was occurring off Suffolk. Offshore lobsters being larger represent the most significant spawning stock. Many local fishermen felt the habitat of the inshore fishery was not suitable to hold larger lobsters. The Committees Officers had looked into the population distribution and although there was a much reduced frequency of larger lobsters occurring in the inshore district there was evidence to suggest the inshore ground was suitable to sustain lobsters up to 98mm carapace length. Bearing in mind the current landing statistics the Officers had considered the four options for implementation of the increase size, put forward by Defra, and made a judgement on the likely financial affect this would have on the local industry. Undoubtedly increasing the MLS from 87mm to 90mm in one step would be quite damaging to the local fishermen. It was felt that increasing the MLS by 1mm each year up to 90mm would have the least negative short-term affect on the industry whilst still securing the long-term benefit to the fishery.

In line with increasing the Minimum Landing Size Defra were also considering applying a Maximum Size Limit. The population distribution of the inshore and offshore fisheries would suggest that a Maximum Landing Size of 120mm would be suitable. Applying a Maximum Landing Size would have an affect on the offshore fishermen as well as some divers who see large lobsters as trophy catches.

Members were concerned how increasing the minimum landing size would affect the local industry and questioned how long a lobster takes to grow the extra 3 mm. Unfortunately this cannot be easily determined as it depends greatly on the individual lobster. There was also concern that vessels fishing out side the 12 mile limit would not be obliged to adhere to the size regulations.

Mr Large speaking on behalf of the north Norfolk fishermen advised that ideally they would prefer to see the MLS remain the same, however, if it had to be increased they would prefer the increase to take place at the rate of 1mm per year up to 90mm.

Members considered the implication of increasing the MLS and introducing a maximum landing size and also took into account the Committee's role of managing the fish stocks within the district. They were however also concerned that no further action was being taken by Defra regarding berried lobsters. Councillor Turner requested that this continue to be raised on the Committees agenda.

It was Resolved that the Committee should recommend to Defra that the increase to the minimum landing size for lobsters to 90mm should take place over a period of three years with a 1mm increase each April. By introducing this legislation in this manner the financial impact of these proposals would be lessened and spread over three years, making them more acceptable to the industry. A maximum landing size of 120mm should be introduced at the same time as the initial increase in the minimum landing size and applied to the entire population (not just females).

**Proposed: Councillor Baxter
All agreed**

Seconded: Councillor Joyce

ST06/50 CLERK'S REPORT ON THE APPRAISAL OF THE THIRD DRAFT OF THE WASH COCKLE AND MUSSEL POLICY UNDERTAKEN BY THE MARINX CONSULTANTS

The Clerk advised that the purpose of the cockle and mussel policy was to have in place a mechanism which will remove the need for protracted discussions with Natural England regarding the opening and closing of mussel and cockle fisheries. The independent consultant had hoped to have completed their review by October but had delayed the final report in order to consider further valuable fisheries data provided by the Joint Committee. The final report would be presented to the Joint Committee at the January 2007 Statutory meeting.

Members agreed to receive and note the report.

ST06/51 CLERK'S REPORT ON THE REVIEW OF THE VESSEL DEROGATION LIST FOR THE SOUTHERN AREA RELATING TO BYELAW 12 'INSHORE TRAWLING RESTRICTIONS'

In 1996 an extension to the 3 mile trawling restriction byelaw was made by ESFJC. At the time of advertising the byelaw any vessel who could prove a track record of fishing within this area would be given a derogation to continue fishing until such time as the vessel was sold or changed ownership. It was unclear from the public notice of the proposed byelaw whether a vessel owners were required to apply for such a derogation. Following recent events at Bacton it would seem that the owners of four vessels believed they had automatically been added to the list of derogated vessels. The Clerk had made attempts to find evidence which supported these owners claims of fishing in the relevant area by reviewing the boarding inspections that had been carried out by ESFJC officers. The boarding records show that these vessels had been inspected at sea but not in the area in question. To date the only supportive evidence that has been provided is by a past ESFJC patrol vessel skipper who states he recalls these vessels fishing in this area but has no documentary evidence to support it. The Clerk believed it may be possible to find evidence of this activity in past Defra minutes and requested that further time be allowed for the evidence to be put forward.

Whilst the members were happy for additional time to be given they were also concerned that the Committee's officers were spending time trying to find the evidence when in fact the vessel owners should be responsible for providing the evidence.

Mr Large felt that as these vessels had been given derogations for the northern part of the district and had been aware of the extension to the byelaw they should have applied for the derogation at the time, 10 years later was too late to apply. Mr Large proposed that these vessels be told they did not have a derogation. When put to the vote members did not vote in favour and the original recommendation was put forward to the members.

It was Resolved that further searches for information should be conducted and the issue should be considered again at the next Statutory Meeting.

**Proposed: Councillor Williams
Agreed**

Seconded: Councillor Turner

ST06/52 CLERK'S REPORT ON THE PROPOSAL TO CREATE A RECREATIONAL SEA ANGLING SUB-COMMITTEE

This was considered to be a very straight forward proposal and it was **Resolved that a Recreational Sea Angling sub-committee be formed.**

**Proposed: Councillor Turner
7 votes in favour**

Seconded: Councillor Wood

1 against

Mr Pinborough and Mr Coppolo did not take part in the vote

ST06/53 TO CONSIDER AND APPROVE THE MEETING DATES OF THE COMMITTEE DURING 2007

All Agreed.

Councillor Wood offered his apologies for the meeting in January 2007 as he would be unavailable.

ST06/54 UPDATE WITH REGARD TO THE DEVELOPMENT OF A RAZOR (ENSIS DIRECTUS) FISHERY IN THE WASH

Members accepted this as a matter for information.

ST06/55 REPORT ON THE EIDER DUCK PUBLIC INQUIRY

Councillor Turner expressed his disappointment at the outcome of the public inquiry and the decision not to support the fishing industry. Despite the Clerk putting forward an extremely good case it was likely that the livelihood of the industry and the fisheries would suffer.

Councillor Baxter thought local MPs should be advised of the outcome of the public inquiry.

ST06/56 DEPUTY CLERK'S QUARTERLY REPORT

Members accepted this as a matter for information

ST06/57 RESEARCH OFFICERS QUARTERLY REPORT

Members accepted this as a matter for information

ST06/58 MARINE ENVIRONMENT OFFICERS QUARTERLY REPORT

Members accepted this as a matter for information

ST06/59 It was resolved that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 7 of Schedule 12A of the Act

Proposed: Councillor Williams

Seconded: Councillor Yates

ST06/60 **CLERK'S REPORT ON THE APPLICATION TO RENEW THE HUNSTANTON (LE STRANGE) FISHERY ORDER 1947**

(summary)

The Hunstanton (le Strange) Fishery Order 1947 was due to expire on 14 August 2007 and the current holders of the order wished to apply for an extension for a further 30 years. In order to remove the likelihood of objections at the time of advertisement Mr Meakin was hoping to put forward his case to relevant bodies and hopefully work through or compromise any objections which may be put forward.

Mr Meakin explained to members the extent of the order and advised that the intention was to continue in the same manner that the order currently operated. Whilst members were not against the extension of the order there was concern that the boundary of the order was not specified other than 'as far out to sea as a man could reasonably go to collect shellfish' (on foot). There seemed to be too many variations on where this could run to and whilst this had been acceptable around the time of magna carta the ditches and runs had changed considerably since then and rather than $\frac{3}{4}$ s of a mile it would now be 3-4 miles that a man could walk.

It was Resolved that the extension would be accepted providing further information can be provided on the definition of the boundary and providing it was accepted that this was an extension not a new order and therefore it must be shown that it remained an area of approximately 298 hectares (737 acres). The Clerk would report back to the next meeting.

Proposed: Councillor Baxter

Seconded: Councillor Williams

There being no other business the meeting closed at 1245 hours.