

STATUTORY MEETING

Minutes of the STATUTORY MEETING of the Joint Committee held on **Wednesday 30th July 2008**, at the offices of the Joint Committee, 6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk, PE30 2JG at 1030 hours.

PRESENT

Cllr D A Baxter	Norfolk County Council - Chairman		
Cllr A H Turner JP	Lincolnshire County Council		
Cllr S F Williams	Lincolnshire County Council		
Cllr D Rye	Norfolk County Council		
Cllr R A Ward	Suffolk County Council		
Cllr D Wood	Suffolk County Council		
R Brewster)		
R Garnett)		
N Lake)		
I Large)		
T Pinborough)Defra Appointees		
C A R Southerland)		
S Williamson)		
M Yates)		
Dr Tomlinson	EA Representative		
M R Mander	Clerk and Chief Fishery Officer		
C M Hurley	Finance Officer)	Present by
J Stoutt	Marine Environment Officer)	Invitation
J Sooben	MFA)	

NB Councillor Callaby arrived to take part in the meeting but regrettably was not able to negotiate the stairs. The Clerk considered hiring an alternative room for the meeting however, as it was a public meeting and had been advertised at the address of the Committee's offices it was felt the venue should not be changed.

APOLOGIES

No apologies for absence were received

CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed 6 members of the Defra Coastal Waters Team who were present to observe the Committee in operation.

DECLARATION OF MEMBERS PERSONAL INTERESTS

Messrs Brewster, Garnett, Lake, Southerland and Williamson declared an interest in agenda items 10 and 16.

ST08/36 MINUTES OF THE STATUTORY MEETING OF THE JOINT COMMITTEE HELD ON 30th APRIL 2008

Members agreed the minutes were a true record of proceedings.

ST08/37 MATTERS ARISING

ST08/27: LOBSTER SCRUBBING TEST: Mr Pinborough enquired whether there had been any further progress with this legislation. The Clerk advised that the Deputy Clerk had had written to Defra requesting the information that had been used to base the Minister's decision on. The matter was therefore still ongoing and members would be advised once there was further information available.

ST08/38 FINANCE OFFICER'S REPORT ON THE FINANCE & GENERAL PURPOSES SUB COMMITTEE MEETING HELD ON 25th JUNE 2008, TO RECEIVE THE STATEMENT OF ACCOUNTS FOR THE YEAR ENDED 31ST MARCH 2008 AND AUTHORISED TRANSFERS TO AND FROM THE JOINT COMMITTEE'S RESERVE FUNDS, AS FORMALLY APPROVED BY THE FINANCE & GENERAL PURPOSES SUB-COMMITTEE

Members were advised that the accounts had been scrutinised and discussed by the Sub-Committee, and were now before the full committee for any questions to be asked.

It was Resolved to approve the Statement of Accounts for the year ended 31st March 2008 and to authorise, in accordance with the Joint Committee's Financial Regulation 3.4, transfer of funds to and from ear-marked reserves as stated on page 2 of the Statement of Accounts.

**Proposed: Councillor Williams
All Agreed**

Seconded: Councillor Turner

ST08/39 FINANCE OFFICER'S REPORT ON PAYMENTS MADE AND MONIES RECEIVED DURING THE PERIOD 1st APRIL 2008 TO 18th JULY 2008

It was **Resolved** to accept the Finance Officer's report on payments made and monies received during the period 19th January 2008 to 31st March 2008 and approve payments of £609,217.64 and receipts of £1,274,254.79.

**Proposed: Cllr Williams
All Agreed**

Seconded: Cllr Rye

ST08/40 ELECTION OF A MEMBER TO THE FINANCE & GENERAL PURPOSE AND VESSEL SUB-COMMITTEES

In the absence of potentially suitable members of these sub-committees it was agreed to defer this item until the next meeting.

ST08/41 CLERK'S REPORT ON THE WASH MANAGEMENT SUB-COMMITTEE MEETING HELD ON 28th MAY 2008

Members were asked for any questions they had with regard to the notes relating to the Wash Management Sub-Committee. Mr Lake noted that the cockle riddle spacing was to be reviewed one week into the fishery. He questioned why it could not be amended prior to the start of the fishery to prevent small cockles being caught, "which would only end up

on farmers roadways". He felt the industry were all of the opinion that the fishery should start with a 14mm riddle spacing.

The Clerk advised that meetings had been held with both the industry and the Wash Management Sub-Committee and the 12mm riddle spacing had been agreed, with the evidence of the cockle surveys and size distribution being taken into account. However, the Clerk acknowledged that recent indications suggested the amount of shell on the ground was greater than had been anticipated during the survey which was why he had agreed to review the riddle size once the fishery had been going for a week. During the week evidence would be collected by the Research Officers so that in the event of Natural England being notified of a change in riddle size there would be suitable evidence for the Officers to base their decision on. Also with sufficient evidence Natural England should be able to make a decision more quickly on whether or not to agree to a change in riddle size.

Members expressed their views on amending the riddle size, and it became clear there was not a general consensus of opinion that the riddle size should be increased. It was suggested that if the fishery was not viable with a 12mm riddle then it should remain closed. It was also noted that some members felt the first week of the fishery was the wrong time to reassess the riddle size as during that week the best cockles would be targeted. Bearing this in mind the Clerk agreed to review the situation when the industry felt they were landing too much shell for the fishery to be viable. The Clerk also agreed to advise Natural England that they may be receiving a request for the riddle space to be increased.

Mr Lake then queried why 37% of the TAC had been allocated to handworking, when no handworking was taking place. Mr Lake requested that some of the handwork quota should be reallocated to the dredge fishery. The Clerk advised that the quota had been allocated in line with the agreements reached at both the industry and Sub-Committee meetings, to give the Handwork TAC to the dredge fishery would only create problems. Councillor Williams did not believe changes should be made on an adhoc basis but should be based on evidence. Mr Lake requested that a meeting of the Wash Management Sub-Committee be held to discuss what he felt was a very urgent matter. The Clerk felt that before a meeting was called the impact of what was being asked for should be considered, he felt that calling a meeting too soon may result in there being insufficient evidence to reach a decision.

It was Resolved that the Clerk and the industry should communicate and when they felt the time was right a meeting of the Wash Management Sub-Committee would be called.

Proposed: Councillor Turner

Seconded: Councillor Williams

ST08/42 CLERK'S REPORT ON THE PERSONNEL SUB-COMMITTEE MEETING HOLD ON 30TH APRIL 2008

Members were advised that by the 11th August all four new Officers would have commenced work with the Joint Committee. Inevitably they would all need guidance during their first few months but the Clerk was sure they would all be assets to the Committee.

PENSION SCHEME: The Clerk advised that following the request of the Sub-Committee the Finance Officer had taken guidance from the Norfolk County Council Pension Scheme which had resulted in the scheme now being in place for the Committee's Officers. The Finance Officer was congratulated for her work on this matter.

ST08/43 CLERK'S REPORT ON THE VESSEL SUB-COMMITTEE MEETING HELD ON 25TH JUNE 2008

As there were no matters arising or questions to be answered members agreed to receive the report

ST08/44 CLERK'S REPORT ON THE PROPOSAL TO CREATE A STRATEGIC ENVIRONMENTAL POLICY

The Committee's approach to these policies had been set out through the Business Plan for 2008/2009. This set out the expectations placed on the Committee in terms of its environmental responsibilities. The Clerk advised the fast approaching Marine Bill was likely to increase these responsibilities. Whilst the Committee's Officers currently try to influence other bodies in how their activities will affect the district, e.g. windfarms, to make representation of a high standard does place considerable strain on the available resources. The Clerk questioned members whether it was their intention that the Officers should continue to make responses of a high standard, if this was the case, with the increasing environmental role it may be necessary to create an additional post to assist the MEO in her work. The Chairman felt it was essential that the work continued to the current high standard.

Mr Pinborough questioned whether the Committee had socio-economic expertise or if it had to be paid for. The Clerk advised that the Committee use the resources available to them from data collected by Officers and general information available in the Annual Reports. The Clerk also advised that under the Marine Bill it was probable that work would be required on Regulatory Impact Assessments for activities within the district. He also thought it may be necessary to gather more detailed information on angling under the remit of the Marine Bill.

Dr Tomlinson supported the creation of the policy but expressed concern at the timescale involved. With the Marine Bill likely in 2009 he felt a policy put in place before that would need to be very broad, therefore he questioned whether it was intended to have the policy in place before or after the Marine Bill was active. The Clerk responded that it was his opinion that the Committee needed to provide direction now but acknowledged that the Policies needed to be structured correctly to ensure they remained valid and useable post Marine Bill.

It was Resolved that the Clerk should provide a draft policy for consideration at the next Statutory Meeting.

**Proposed: Councillor Williams
All Agreed**

Seconded: Mr Pinborough

At this point Dr Tomlinson left the meeting.

ST08/45 CLERK'S REPORT ON AN APPLICATION FOR LAY GROUND IN THE WASH AND UPDATE ON THE REVIEW OF CONSENTS PROCESS

Mr Brewster left the room

LAY GROUND APPLICATION: The Clerk advised that the required consultation period had taken place for the proposed lay, during the 28 day period only one response

had been received which was in support of the lay. The area still required an assessment by Natural England but the Committee were asked to consider whether or not they supported the lay application.

Mr Lake advised that recent information he had received regarding lay ground did not show the proximity of the proposed site to existing lays sufficiently and he felt this was necessary to form an opinion as mussel stocks could drift from one lay on to another. The Clerk agreed that in future this information would be provided.

It was Resolved that the Committee would agree to support the lay application

Proposed: Mr Williamson

Seconded: Councillor Ward

Mr Brewster returned to the meeting

REVIEW OF CONSENTS: Under the Habitats Directive, Officers were required to undertake a review of existing activities within the Wash. Natural England had requested that this included a comprehensive review of all the lay activity within the Wash. The review process required biotope mapping of all the areas surrounding the existing mussel lays in the Wash. This information was then evaluated against Wash wide data compiled by the CEH. It was against this baseline that Officers determined what smothering impacts arose from relaying mussel onto the substrate and then the re-suspension of material during harvesting. Mussel beds filter large volumes of water and remove the vast quantities of organic and inorganic matter. The review had to consider to what degree the introduction of significant tonnages of mussel into the Several Fishery was influencing the abundance and structure of phytoplankton communities due to their filter feeding activities.

Members were advised that this was an enormous piece of work for the Officers to undertake. It was particularly difficult as the lays had been in existence for so long it was impossible to know what the ground was like before their existence. All the information had been submitted to Natural England for them to consider in detail, however the Clerk was optimistic that the lays would not be found to have a detrimental affect on the site.

Members were advised that no lay ground could be allocated to individuals until the Review of Consents had been completed by Natural England.

Members considered the potential implications of reviewing the fisheries in the Wash, it was felt there may be problems with Razor fish, and *Sabellaria spinulosa* reefs. The Clerk was able to reassure members regarding the impact that reef protection would have on the fisheries. A byelaw to protect the reef feature was in the process of being developed. All parties would be consulted during this process and the Clerk was hopeful that this would be the mechanism by which minimum restriction was placed on the brown shrimp fishery whilst protection was afforded to this important, designated feature of the European Marine site.. Mr Lake questioned whether there was a clear definition of a "reef". Following a European Workshop a matrix had been devised which took into account elevation / coverage / extent etc to determine the "reefiness" of an area of Sabellaria.

Members agreed to receive the report.

ST08/46 DEPUTY CLERK'S REPORT ON STAFF ACTIVITIES – APRIL - JUNE 2008

The Clerk advised that following reports of storage tanks being drilled and the diesel being removed he was looking into having CCTV coverage installed at the moorings.

Mr Pinborough expressed concern that there was close inshore trawling and illegal netting were taking place, and questioned whether the Committee were in a position to do anything about it. The Clerk advised that reports of illegal fishing were always followed up however, ESFJC did not have the legal powers to enforce some breaches of legislation and these offences would need to be reported to the MFA.

Councillor Williams requested that in future any successful prosecutions be advertised as he felt it may be a good deterrent to illegal fishing.

ST08/47 SENIOR RESEARCH OFFICERS QUARTERLY REPORT

Members accepted this as a matter for information

ST08/48 MARINE ENVIRONMENT OFFICERS QUARTERLY REPORT

Members were made aware that a series of Offshore SACs were to be announced, and it may be that one of them would be within the Committee's District. It was probable that it may straddle the 6 mile limit of the Committee's district, which could become problematic to enforce. Members expressed concern about not being included in the consultation. The Clerk assured members that the industry and wider stakeholders would be consulted at the appropriate time and he was sure there would be full and open consultation before SACs were sited.

Members also expressed concerns about the amount of bait digging taking place around the Suffolk coast, currently the ESFJC are not the appropriate body to deal with this issue. Natural England should be informed, as they do have the legal ability to deal with issues associated with this activity. Mr Pinborough advised there was a Bait Diggers Code of Practice for the Stour and Orwell, which appeared not to have been adhered to, he would look into a relaunch of this code.

Members accepted this as a matter for information

ST08/49 MARINE ENVIRONMENT OFFICERS REPORT ON MARINE CONSERVATION ZONES AND THE IMPLICATIONS FOR INSHORE FISHERIES AND CONSERVATION AUTHORITIES (IFCAs)

The Clerk welcomed the report, he felt it identified where the future responsibilities may be for IFCAs.

Members accepted this as a matter for information

ST08/50 MARINE ENVIRONMENT OFFICERS REPORT ON THE WADDEN SEA MUSSEL (SUBLITTORAL) MANAGEMENT WORKSHOP HELD ON 10TH & 11TH JUNE 2008

The Clerk felt there was some importance to be placed on the links with the Wadden Sea as both areas had similar fisheries. It was of particular significance that the Appropriate Assessment for the important sublittoral mussel fisheries in the Wadden Sea had been contested by Conservation NGOs. The courts had upheld the challenge and a further judgement on the impact of the fishery was likely to be announced by the end of August. In the meantime the fishermen were not able to continue to fish, jeopardising the future of this multi million pound industry.

Councillor Williams queried whether there was sufficient insurance cover to deal with an issue of this magnitude. The Clerk advised that there had never been a need for such cover however, hopefully under the new IFCA's there would be joint resources to cover such issues.

Members accepted this as a matter for information

ST08/51 ANY OTHER BUSINESS

Wash Fishery Order Entitlement Debate: The Clerk briefly explained the background to the situation and that an appeal was being made following a decision made by the Clerk. The Clerk advised that the local area officer had reminded the individual in March that his 24 month would expire in July, however he had expected notification in writing nearer the time. The Clerk stated there was no stated obligation for ESFJC to inform an entitlement holder when their entitlement was due to expire. He did however, accept that perhaps he had been hasty in notifying the next entitlement holder in line without waiting to see if an appeal was lodged.

Member were provided with background on the entitlement holder in question and noted that apart from one licence which was issued for a month, licences had only been taken out to maintain the entitlement and not to actively pursue either the cockle or mussel fisheries. It was noted that in the event of a down turn in the crab and lobster fisheries the entitlement would have enabled the individual to pursue the cockle and mussel fisheries.

The Clerk indicated there were three possible solutions to the problem which he asked the members to consider. Members gave considerable thought to the options available with industry representatives expressing concern that a fisherman whose family had fished for generations was losing the right to fish for local species.

Whilst members were inclined to support the Clerk's decision they did feel it was necessary to set out a clear procedure to deal with such matters in the future. There was also discussion on whether or not expired entitlements should be being re-issued or not as the Dutch consultant's (MarinX) report had suggested there was a need to reduce the number of vessels working within the district. Councillor Williams suggested the Clerk produce a paper on these issues that should be sent out to the industry for consultation.

It was Resolved to uphold the Clerk's decision to reissue the entitlement and a review of Wash Fishery Order entitlements would need to be carried out with the Clerk producing a paper for more detailed discussion.

Proposed: Councillor Williams

Seconded: Councillor Turner

Votes in favour: 5

Votes against: 1

Over 14m Vessel: Mr Brewster questioned why the Clerk had permitted a vessel over 14m in length to enter the Wash with the purpose of unloading mussels caught outside the Wash onto the quay at Boston particularly when the vessel was carrying 4 dredges on board when only 2 were permitted to be used by local vessels.

The Clerk acknowledged that he was aware that the vessel was intending to enter the district however he had provided the advice that as it was over 14 metres in overall length and had a holding capacity of over 40 tonnes it would not be able to relay directly onto lays but would have to land onto the quay. The vessel was equipped with a Vessel Monitoring System so at any time the Clerk could have ascertained where the vessel was. The Clerk did not feel he was in a position to stop a vessel travelling through the Wash to land its

catch at Boston quay. Mr Brewster felt that large vessels travelling through the district should be made to conform with local legislation, such as two dredges, rather than four. The Clerk did not believe he could restrict a vessel on the pretext that it may commit an offence, however the Clerk asked whether the MFA representative present could take back the concerns that he had heard and consider these issues before the Defra licence was issued to the vessel.

Mr Lake aired further concerns that there was a threat of illegal fishing activity whenever a vessel put to sea. He felt particularly aggrieved that confidential information obtained by Joint Committee Officers regarding the location of his vessels whilst fishing sublittoral mussel beds had been passed on to other members of the industry. The Clerk advised that under no circumstances would he condone any of the Officers passing on such information and he did not believe it was a member of ESFJC which had passed the information on to a third party.

Mr Williamson advised that he had asked the Clerk for information on where Mr Lake's vessels were fishing, however, the Clerk would not supply the information so Mr Williamson had followed Mr Lake when he went to sea, which was how he knew where they were fishing.

There being no other business the meeting closed at 1240 hours.