

STATUTORY MEETING

Minutes of the STATUTORY MEETING of the Joint Committee held on **Wednesday 29th October 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 Callaby	Norfolk County Council		
Cllr D Rye	Norfolk County Council		
Cllr R A Ward	Suffolk County Council		
Cllr D Wood	Suffolk County Council		
J Abbott)		
R Brewster)		
R Garnett)		
N Lake) Defra Appointees		
T Pinborough)		
C A R Southerland)		
M Yates)		
M R Mander	Clerk and Chief Fishery Officer		
D Vaughan	Deputy Clerk)	
C M Hurley	Finance Officer)	Present by
J Stoutt	Marine Environment Officer)	Invitation
A Garnham	Fishery Officer)	
B Smart	MFA)	

APOLOGIES

Apologies for absence were received from Councillors Bakewell (LCC) & Bellham (SCC) and Messrs Large & Williamson (Defra Appointees) and Dr Tomlinson (EA)

CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Councillor Callaby, and Mr Abbott, both new members of the Committee.

DECLARATION OF MEMBERS PERSONAL INTERESTS

Messrs Brewster, Garnett, Lake, declared an interest as WFO entitlement holders, Mr Southerland declared an interest in the item relating to sabellaria reefs and Cllr Abbot declared an interest in the respect that that he was a serving Magistrate.

ST08/52 MINUTES OF THE STATUTORY MEETING OF THE JOINT COMMITTEE HELD ON 30th JULY 2008

ST08/51: Mr Lake advised that during the previous meeting when Mr Williamson stated that he had followed Mr Lake's vessels, he had responded that it was not possible because his vessels were tied up in the harbour. He requested that this be added to the Minutes. The

ST08/56 FINANCE OFFICER'S REPORT ON PAYMENTS MADE AND MONIES RECEIVED DURING THE PERIOD 19TH JULY 2008 TO 17TH OCTOBER 2008

Councillor Williams questioned whether the Committee were taking advantage of the reduced fuel costs to keep the vessel running costs down. The Clerk advised that once the fuel tanks were due to be filled the cost of fuel would be investigated. Members were also advised that CCTV coverage had been installed at the moorings.

It was Resolved to accept the Finance Officer's report on payments made and monies received during the period 19th July 2008 to 17th October 2008 and approve payments of £352,995.06 and receipts of £74,502.90.

**Proposed: Cllr Turner
All Agreed**

Seconded: Cllr Williams

ST08/57 CLERK'S REPORT ON THE SPECIAL WASH MANAGEMENT SUB-COMMITTEE MEETING HELD ON 17TH SEPTEMBER 2008

Members agreed to receive the report and note the content.

ST08/58 DEPUTY CLERK'S REPORT ON THE RECOVERY OF PROSECUTION COSTS

Members were advised that under current arrangements the Committee receives cost payments for successful prosecutions based only on the legal expenses incurred. At the suggestion of the Committee's solicitors, the Deputy Clerk had investigated the impact of moving in line with other bodies and including the actual costs incurred to take a prosecution to court, vessel costs and officer time etc.

Having read the paper members gave their views on its content. Mr Lake advised that he took exception to the Deputy Clerk inflating fishermen's earnings, using mythical figures to give the wrong impression to members and inflating the costs involved particularly with regard to *Three Counties* costs.

The Deputy Clerk explained that each case would be based on actual costs involved. Not every prosecution would involve the use of one of the Committee's vessels to undertake investigatory work required to obtain further evidence to support the case.

Councillor Callaby believed that the indicated costs were in line with other prosecutions. He also advised that an individual's earnings would be taken into account when considering how payment of fines/costs should be made.

Councillor Turner advised that he thought it may still be possible to transfer fines to costs, which would result in the Committee recouping more of its outlay.

It was Resolved to agree to the Officers' proposals as outlined in the report.

Proposed: Councillor Williams

Seconded: Councillor Turner

Votes in favour 8

Votes against 0

Abstentions 1

ST08/59 CLERK'S REPORT ON THE REQUEST TO MODIFY VESSEL DESIGN FOR THE SAFE CARRYING OF MUSSEL

The Clerk advised that a request had been made for the Committee to agree to a vessel being modified to allow the carriage of mussel seed in a hold rather than as deck cargo.

The vessel owner had been advised by the MCA that they were concerned about the safety of the vessel whilst carrying quantities of mussel on deck. Members were reminded that under Article 8 of the Wash Several Order Lay Lease, any modification to a vessel with a dispensation would result in the dispensation being lost. The Clerk felt members needed to consider whether increasing the size of a deck hatch to allow access to a hold, which already existed, was to be construed as a modification, particularly as the alteration was being suggested on H&S grounds. Should the alteration be carried out it would result in an increased potential carrying capacity but it would not exceed the 40 tonnes limit applied to vessels working on lays in the Wash.

Consideration was given to the safety advantages of carrying the catch in the hold, particularly in poor conditions. However, not all members were in agreement that the alteration should be permitted. Mr Brewster expressed his view that the vessel in question was already larger than other vessels working within the Wash and already had a clear advantage over everyone else. He also did not believe that such an alteration to a vessel with a dispensation would be permitted in any other fishery. Mr Brewster felt that as the vessel owner had known about the amendment to Article 8, prior to it coming in force, he could have altered the vessel then, he felt the vessel should remain unaltered, as if the rules were bent for these vessels then they would have to be bent for others.

Mr Southerland expressed concern about the safety of the vessel, as when carrying large quantities of seed mussel the weight should be carried as low as possible.

Councillor Rye did not believe that H&S onboard vessels was the Committee's responsibility, it was for the Skippers to make sure they did not have too much deck cargo. He proposed that the modification should not be permitted.

Mr Lake felt that the vessels with a dispensation were already a special case and he thought the modification rule had been put in specifically for these vessels.

The Clerk acknowledged that H&S on fishing vessels was not the Committee's remit. He felt there should not be concern with regard to setting a precedent as each request would be considered on a case by case basis.

As Councillor Rye had put forward a counter proposal the Chairman asked members to vote on the proposal put forward by the Clerk.

It was the Officers' opinion that the proposed modification to MFV Sea Swallow LN20 would not breach the conditions under Article 8 of the Wash Several Order Lay Lease and should be approved by the Joint Committee.

Proposed: Councillor Turner

Seconded: Councillor Ward

Votes in favour: 2

Votes against: 4

It was Resolved not to agree to the Officer's proposal, the alteration to MFV Sea Swallow LN20 would not be permitted under Article 8 of the Wash Several Order Lay Lease.

ST08/60 CLERK'S REPORT ON THE PROPOSED CHANGE TO THE STANDING ORDER COVERING BOARDINGS OF VESSELS BY ESFJC FISHERY OFFICERS

The Clerk advised members that during recent boardings, Fishery Officers had been asked by two skippers to sign forms relating to H&S. As a result of these incidents the Clerk had sort legal advice as to whether they were obliged to sign such forms. In response to the enquiry the advice was that a change should be made to the Standing Orders so that Boarding Officers were aware they did not have to heed the skipper's instructions, if they believed that the request was a deliberate ploy to avoid detection of an offence. The Clerk

requested the members to agree to the proposed caveat to the standing orders to ensure the Fishery Officers had clear direction from the Committee on how to react.

Councillor Turner questioned whether it was a standard H&S document which the Clerk could circulate to all Officers to read in advance of carrying out boardings so that they would be aware of what was being signed. The Clerk had requested copies of the documents from the owner of the vessels involved but nothing had been forthcoming. Unfortunately the document in question would most likely be amended for individual vessels also the Clerk was not happy with Officers signing something they had not read as documents could be amended. The Clerk also felt it was the Skippers' responsibility to advise Boarding Officers of any potential H&S issues, particularly as each vessel has different hazards, and by signing such forms this may negate the skipper of his responsibility.

Both Councillors Williams and Wood expressed views in favour of the proposal, particularly as carrying out boardings was part of the Committee's statutory duties. This view was echoed by Councillor Callaby who felt the request to sign such forms was a smoke screen to prevent the vessel being boarded.

Mr Lake acknowledged that the vessels in question belonged to himself, but went on to give examples of boardings carried out by the Committee's Officers which he did not feel had complied with the Standing Orders and the request for the signature was to protect themselves from dangerous activities being carried out by the Officers. Mr Brewster advised that he had also been told of such incidents. The Clerk advised Mr Lake that if he had a problem in the future he should make a formal complaint to the Committee.

Councillor Rye believed that a number of companies asked for a signature before people were allowed to enter of work on their sites, however, it was pointed out that Statutory bodies such as enforcement agencies, fire brigade etc were not asked for such signature.

It was Resolved to agree to the Officers proposal to add a caveat to the Standing Order relating to boarding vessels, as set out in the Clerk's Report.

Proposed : Councillor Williams Seconded: Councillor Wood
All Agreed

ST08/61 MARINE ENVIRONMENT OFFICER'S REPORT ON THE PROPOSED STRATEGIC ENVIRONMENTAL POLICY

The report had been prepared to update members on the progress being made towards the policy. The policy was intended to ensure best practice for all the Committee's environmental work.

Advice and guidance were being sort from other bodies such as Natural England and the Environment Agency but no firm timescale was available. It was anticipated that during the next 3 to 6 months the first stage would be completed.

Mr Pinborough complemented the Officers on the wording being used which advised it was for the protection of all fisheries rather than the fishing industry, he felt more SFCs needed to move in the same direction. The Clerk advised it helped to show the Committee was there to manage fisheries for all interests not just the commercial fishing sector.

It was Resolved to receive the report and await the notification of completion of the first stage.

Proposed: Councillor Williams
All Agreed

Seconded: Councillor Callaby

ST08/62 CLERK'S REPORT ON RECOMMENDATIONS SET OUT IN NATURAL ENGLAND'S REPORT FOLLOWING THE SUBMISSION OF THE JOINT COMMITTEE'S REVIEW OF WASH SEVERAL ORDER LAY CONSENTS

As a result of a long running process and a considerable amount of work by the Committee's Officers, Natural England's final response to the submission had been received. Members were advised that Natural England were of the opinion that the existing lays were not having an impact on the integrity of the Wash designated sites.

However, several recommendations were made by Natural England. These recommendations along with the Clerk's view on how best to address them were put before the members for consideration.

Members accepted the Clerk's view on how to address the recommendations made by Natural England. Notably the need to ensure cultivation of Pacific Oysters met stringent controls meant the Clerk would need to amend the wording of the lease issued to lay holders.

Inevitably the recommendations meant there would be restrictions on ground available to be leased for lays, the Clerk felt that with this in mind it would be necessary to consult with the industry to discuss whether they would like to reconsider a previous decision to prevent lays being permitted in specific areas.

It was Resolved to agree to the Officer's proposals on how to fulfil recommendations made by Natural England and to consult with the Wash Fishery Order Entitlement holders on the use of the Gat Sand and Main End areas for mussel cultivation.

Proposed: Councillor Ward
All Agreed

Seconded: Councillor Williams

ST08/63 CLERK'S REPORT ON THE AQUATIC ANIMAL HEALTH (ENGLAND AND WALES) REGULATIONS 2008

The Clerk advised that the Committee had to take on board additional duties as a result of a recent Directive. The purpose of the Directive was to prevent the spread of diseases in shellfish. Previously Cefas had annually monitored the lays but this had been deemed to be insufficient. ESFJC are the grantees of the Wash Several Order and deemed the 'operator' of the lays under the Directive, the Committee were tasked with monitoring what stocks were put into or removed from the lays. The Clerk felt this would involve a 'bio security' plan for lay holders to notify Officers prior to relaying stock onto lays. Currently throughout the country there were six restricted areas from which import of seed would need to be controlled. The Clerk felt it would be best to notify lay holders of these areas and see what level of compliance they were prepared to provide prior to making changes to the lease. Mr Lake was concerned that seed sources were of commercial interest and industry members may not wish to divulge their source. The Clerk acknowledged this but advised that it would be necessary to notify Cefas of harvesting areas but the notification would not provide individual's information.

Mr Yates questioned whether Cefas would still have overall responsibility and if so how quickly they would act. The Clerk was not in a position to state how quickly Cefas would respond but reiterated that the Committee would need to be a position to provide the information. Mr Southerland questioned whether all lay holders were registered Fish

Farmers and as such should provide the information themselves. The Clerk advised that lay holders were shellfish farmers but under the Directive, ESFJC were considered to be the operators and were responsible for providing the information. Elsewhere in the District, Cefas would continue to meet with individual shellfish farmers to collate the same information.

It was Resolved that all layholders should be made aware of the changes in legislation and advised that the necessary information should be provided to the Officers of the Joint Committee before relaying from sources outside the Wash took place. If individuals failed to meet this requirement it may be necessary to change the conditions of the lay lease.

**Proposed: Councillor Callaby
All Agreed**

Seconded: Councillor Ward

ST08/64 PROPOSED DATES FOR MEETING IN 2009

Members agreed to note the proposed dates.

ST08/65 DEPUTY CLERK'S REPORT ON DEVELOPMENTS REGARDING BERRIED LOBSTERS

Members were advised that Defra were looking into the possibility of making changes to the crab and lobster legislation but felt that as it was some time since the previous consultation it would necessary to instigate a new consultation process.

The question was raised whether other SFCs were in favour of berried lobster legislation, the Clerk advised that the other SFCs through the ASFC had supported the introduction of national legislation to prohibit the landing of berried lobsters. It was also noted that the restriction of effort was being considered by Defra, which some SFCs had already got in place.

It was Resolved to accept the report and the proposal that a response would be prepared and submitted to Defra on behalf of the Joint Committee if any management measures concerning either brown crab or lobsters were to be taken forward by the Minister and consulted on nationally.

**Proposed: Councillor Williams
All Agreed**

Seconded: Councillor Rye

ST08/66 DEPUTY CLERK'S REPORT ON PROGRESS TOWARDS REMOTE TRACKING OF VESSELS OPERATING UNDER WASH FISHERY ORDER LICENCES

Members agreed to accept the report.

ST08/67 CLERK'S REPORT ON PROGRESS TOWARDS CREATING A BYELAW TO PROTECT SABELLARIA REEF

It was felt there would be opposition to this byelaw due to its potential to block off traditional fishing grounds Mr Lake felt that as the Marine Bill called for 'no-take zones', the proposed byelaw was premature. He felt these zones could include areas of sabellaria reef therefore it should be left until the effects of the Marine Bill were known.

Councillor Williams acknowledged that trawling would be restricted by the byelaw but added that the Committee had a need to meet their environmental responsibilities. The Clerk advised that there was also the potential for an area on the Lincolnshire coast to be

identified as an SAC, however he felt that areas already closed by the Sabellaria byelaw could be identified as MPAs for the purpose of the Marine Bill

Members agreed to note the report

ST08/68 DEPUTY CLERK'S UPDATE REGARDING THE OPERATION OF LARGE MUSSEL DREDGING VESSELS OPERATING WITH IN THE 6-12nm AREA

Mr Brewster advised members that despite the Clerk's advice that large vessels working in the Wash had to have tracking devices in operation, he had spoken to Defra and been advised it was not mandatory. Taking this into account he questioned why the Clerk had misinformed the industry and why tracking devices were being considered for local vessels but would not be required for others.

The Clerk advised that his comment had referred to a specific vessel that did have a tracking device on board and had been willing to use it whilst operating off the Committee's district. Referring to tracking devices on local vessels the Clerk felt that if more effective management measures were available then they should be put in place.

Members agreed to note the report.

ST08/69 DEPUTY CLERK'S QUARTERLY REPORT

Members agreed to note the report.

ST08/70 SENIOR RESEARCH OFFICER'S QUARTERLY REPORT

Members agreed to note the report

ST08/71 MARINE ENVIRONMENT OFFICER'S QUARTERLY REPORT

The ongoing problems involving bait digging along the Suffolk coast were discussed. The Clerk advised that as a result of a recent Stour & Orwell management meeting it was suggested that a meeting of interested parties should be convened to establish greater knowledge of the level of bait digging taking place. ESFJC would organise and facilitate the first meeting.

Members agreed to note the report.

ST08/72 ANY OTHER BUSINESS

RESPONSES TO CONSULTATIONS: Mr Pinborough advised that he had been privy to reading some responses to consultations put forward by the ASFC on behalf of all SFCs. He was concerned that he did not associate the response with the views of ESFJC, particularly with regard to anglers. ESFJC had a Recreational Sea Angling Sub-Committee but not many other SFCs seemed to acknowledge anglers in the same way. He felt that in future members may need to consider responding individually rather than through the ASFC. The Clerk advised that members were always asked whether they wished for an individual or joint response. If members wished minutes of the ASFC and CFO meetings could be provided for information. (Some members felt this would be beneficial)

WELLAND WALL MUSSELS: As this site was a man made structure it fell outside the normal management measures. On completion of the annual surveys the industry were notified that these mussels were reopened for exploitation on the same grounds as they had been for the previous fishery. As there was no shellfish classification for the site the

mussels had to be relaid. Under the current guidelines removal of these mussels had to comply with the MLS for mussels taken for sale elsewhere in the Wash. The Clerk had received three requests to review the management measures so that the four tonne/day quota remained but that the stock removed did not have to meet the MLS as it was difficult to get riddling back on the Wall for future use.

It was Resolved that removal of mussels from the Welland Wall would be restricted to 4 tonnes per day but the minimum 45mm size restriction would be relaxed.

**Proposed: Councillor Williams
All Agreed**

Seconded: Councillor Turner

There being no other business the meeting closed at 1215 hours.