

STATUTORY MEETING

Minutes of the STATUTORY MEETING of the Joint Committee held on **Wednesday 28th January 2009**, 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 R Mander	Clerk and Chief Fishery Officer	
D Vaughan	Deputy Clerk)
C M Hurley	Finance Officer) Present by
J Stoutt	Marine Environment Officer) Invitation
J Sooben	MFA)

APOLOGIES

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

DECLARATION OF MEMBERS' PERSONAL INTERESTS

Messrs Brewster, Garnett, Lake, Southerland and Williamson declared an interest in items relating to WFO Entitlements and Vessel Derogations under Bylaw 15. Mr Williamson also declared an interest in items relating to the review of boarding procedures and the trial of a Vessel Monitoring System. Councillor Rye declared an interest as a member of the KLCB. Councillor Wood declared an interest in activities relating to the Stour and Orwell Rivers.

ST09/01 MINUTES OF THE STATUTORY MEETING OF THE JOINT COMMITTEE HELD ON 29th OCTOBER 2009

Mr Abbot requested that reference to him as a Councillor be amended to Mr and that he was a Public Prosecutor not a Magistrate.

Members agreed the minutes were a true record of proceedings.

ST09/02 MATTERS ARISING

There were no matters arising

ST09/03 FINANCE OFFICER'S REPORT ON THE MEETING OF THE FINANCE & GENERAL PURPOSES SUB-COMMITTEE HELD ON 14TH JANUARY 2009

Members agreed to receive the report

ST09/04 ESTIMATES OF EXPENDITURE FOR THE PERIOD 1ST APRIL 2009 TO 31ST MARCH 2010

Taking into account the advice provided by the Finance and General Purposes Sub-Committee, the Committee **Resolved, in accordance with Section 101(6) of the Local Government Act 1972, to approve estimates of expenditure for the period 1st April 2009 to 31st March 2010, amounting to a Levy on Constituent County Councils of £1,248,450.**

**Proposed: Councillor Ward
All in favour**

Seconded: Councillor Williams

ST09/05 TO NOTE THE PROVISIONAL THREE YEAR FORECAST OF ESTIMATES OF EXPENDITURE FOR THE PERIOD 1ST APRIL 2010 TO 31ST MARCH 2013

It was Resolved to note the provisional three year forecast of estimates of expenditure.

**Proposed; Councillor Williams
All in favour**

Seconded: Councillor Bakewell

ST09/06 FINANCE OFFICER'S REPORT ON PAYMENTS MADE AND MONIES RECEIVED DURING THE PERIOD 18TH OCTOBER 2008 - 16TH JANUARY 2009

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 £239,160.89 and receipts of £30,160.08.

**Proposed: Cllr Ward
All Agreed**

Seconded: Cllr Turner

ST09/07 CLERK'S REPORT ON THE MEETING OF THE PERSONNEL SUB-COMMITTEE HELD ON 29TH OCTOBER 2008

Members agreed to receive the report and note the content

ST09/08 CLERK'S REPORT ON THE WASH MANAGEMENT SUB-COMMITTEE MEETING HELD ON 3RD DECEMBER 2008

Members agreed to receive the report and note the content.

ST09/09 CLERK'S REPORT ON THE REVIEW OF THE ADMINISTRATION OF THE WASH FISHERY ORDER ENTITLEMENTS

Prior to discussing this report members were advised by the Chairman that line two of paragraph 3 on the second page should read "... the Clerk's decision not to reissue"

Members were reminded that during a previous meeting concern had been expressed at the high number of Wash Fishery Order Entitlements and the problems that could arise if all these Entitlement holders were to decide to exploit one fishery at the same time. The Clerk

used the Thames fishery as an example and acknowledged that the Wash fisheries had less stock to fish for but had potentially far more vessels able to fish it. Having assessed previous years fishing the Clerk had ascertained that the maximum number of licences being used in any one year was in 2007 when 55 vessels were licensed. This was the level which he felt Entitlements could potentially drop to. The problem arose with how to reduce the level of active Entitlements. There was the option of not reissuing entitlements once they expire until this level was reached, or reissue only every other one, however, this was a particularly difficult decision to make when there were 34 names on the waiting list and some had been on there for 4½ years. The Clerk suggested that to reduce the number of inactive Entitlements, Entitlement holders would need to demonstrate a track record of fishing during the two years that an Entitlement was held, this would involve the actual landing of a species which could be verified by a Fishery Officer, not just the act of taking out a licence during that time. This would however, have the potential to increase the effort on a fishery but the Clerk still believed that in the long term the number of Entitlement holders would decline.

The Clerk acknowledged that no decision could be made without consulting the industry for their opinions and considering any further suggestions they may have to reduce the potential amount of effort that could be applied to fisheries under the guidelines of the Wash Fishery Order. Prior to consulting the Industry the Clerk needed clarification from the Committee that this was the route they wished to go down.

Members questioned the ability of the Committee to remove a licence, and also what benefit there was to holding an Entitlement without using it to fish to which the Clerk advised that having the Entitlement meant when other fisheries were not productive the Entitlement holder would have the option to exploit the cockle and mussel fisheries. Whilst the situation had never arisen in the past, the Committee did have the ability to remove a licence if the holder was convicted twice within five years on fisheries related matters.

Mr Lake felt the idea of asking for a track record through actual fishing would only serve to increase the effort on the fisheries when the industry was asking for it to be reduced. He also felt that the Clerk should work out the average number of licences taken out annually over a 10 year period rather than setting the benchmark using the number of licences taken out when cockle prices were at their highest. The Clerk advised that effort could be capped by applying a quota, what needed to be done was to find a way to reduce the number of licence entitlements being held.

Councillor Williams felt the concern was that there was a large waiting list for Entitlements and these people should have the opportunity to fish rather than Entitlement holders keeping the Entitlement with no intention of using it to go fishing.

It was Resolved that the Committee's Officers should consult the industry with regard to the administration of Wash Fishery Order Entitlements and a report will be made at the next Statutory Meeting.

Proposed: Cllr Williams

Seconded: Councillor Callaby

RECONSIDERING ISSUING A WFO ENTITLEMENT:

As it was two days short of 6 months since this matter was last discussed, as a point of order it had to be deferred until the next meeting.

During this item Councillor Nobbs arrived at the meeting.

ST09/10 REPORT ON THE REVIEW OF ESFJC BOARDING PROCEDURES

At the request of the Chairman the Clerk had reviewed the Boarding Procedures which were put before the Committee for ratification. As a result of looking into how to improve the Boarding Procedures the Clerk believed the use of Body Worn Video Devices (BWVD) would safeguard both Officers and fishermen from malpractice accusations, and could provide evidence in the case of a dispute. Members were advised that this seemed to be the way forward for SFCs, one Committee already had them in place for shore-based Officers and two others were considering using them. Despite feeling it was unfortunate to have to be considering going down this route, members were in agreement with the principle of BWVD's however, they were concerned about the handling and storage of information. The Clerk assured members that if they were to use BWVD's there would be clear guidelines of how to manage any video evidence and Home Office and PACE guidelines would be followed. It was questioned whether the devices could be purchased whilst staying within the confines of the budget. It was also pointed out by members that it would not necessarily be cost effective to buy the cheapest devices as often the video evidence from these were of poor quality and could not be considered useful evidence in court.

It was Resolved that boardings at sea should be carried out by Fishery Officers using BWVD's.

Proposed: Councillor Callaby

Seconded: Councillor Williams

ST09/11 CLERK'S REPORT ON THE PROPOSED CHANGES TO THE JOINT COMMITTEE'S PUBLICATION SCHEME

Members were advised that the Information Commissioner had introduced a new model scheme for all authorities to adhere to. The revised scheme involved the inclusion of new categories of Committee Publications and Lists and Registers and made greater use of the published Business Plan as a source of information.

Councillor Williams noted that the Committee could charge a fee for photocopying, investigating etc and he felt a list of the charges should be included with the Publication Scheme. The Clerk advised the Committee did have a schedule of costs which was separate to the Publication Scheme. Councillor Williams requested that the cost schedule be included in the Publication Scheme.

It was Resolved to adopt the Proposed Publication Scheme, with the proviso that the Schedule of Costs be published alongside the scheme.

Proposed: Councillor Williams

Seconded: Councillor Ward

ST09/12 CLERK'S REPORT ON TWO LAY APPLICATIONS MADE UNDER THE WASH FISHERY ORDER 1992

The Clerk advised that the lay application process was becoming increasingly onerous on the Committee's Officers and in the future the Committee may have to consider limiting the number of lays it was prepared to investigate for an individual.

LAY No TO15: The Clerk advised that the proposed lay was adjacent to existing lay ground and the information had been sent to relevant parties for consultation. A number of objections had been received, primarily based on the proposed lay being situated on recognised brown shrimp ground. Members were reminded that at a previous WMSC meeting members had agreed not to grant lay ground in any area that provided a public fishery.

Other objections had also been received based on increased predator numbers and concern that more lays would result in increased food competition.

It was Resolved not to grant Lay No TO15, on the grounds that it would affect an area which supported a public fishery.

Proposed: Councillor Woods

Seconded: Councillor Ward

LAY Nos RM1-7 and LC1-4: These two lays were different to most lay ground requests in that they were situated on ground which remained 10m below the surface. The proposed sub-littoral lay ground would be used for growing mussels on ropes. The lay ground information had been circulated for consultation and objections had been received. Primarily the ground was regarded as an area used for shrimp fishing, and there were also concerns that the structure being used to grow the mussels on may be difficult to maintain and may come loose from the seabed. It was also felt the structure could be a navigational hazard.

The Clerk advised that the applicant had been made aware of these objections and felt that given the opportunity he could prove that there would be no difficulties in maintaining the structures.

The Clerk acknowledged that based on the fact the ground in question formed part of the shrimp fishery, members should opt to oppose the lays. However, the Clerk felt the Committee should explore further this method of mussel cultivation. It was his suggestion that the industry should be consulted and asked to advise the Officers of an area which they felt could be used for a smaller scale pilot scheme and if such a scheme was effective an area could be allocated to expand the project to a fully commercial basis.

Mr Garnett was concerned that if the trial was successful more requests for large areas of lay ground could be received. The Clerk advised that the Committee were in control of where lays were granted and the same guidelines would apply to sub-littoral lays as applied to intertidal lays.

It was Resolved not to grant the lays but that consultation should take place to identify an area of less impact which could be used as a pilot scheme for mussel cultivation using rope structures.

Proposed: Councillor Williams

Seconded: Councillor Callaby

Mr Lake expressed concern about the poor meat yield in cockles and mussels and requested the Committee put a stop to all lay applications until investigations had been carried out into why the yields were so low.

The Clerk advised that as part of the lay application process an Appropriate Assessment had to be submitted to NE. The previous two applications had been turned down by NE on the basis that they considered intensification of lay ground in certain areas resulted in food competition. In line with this comment Officers also had concerns that the level of primary food production was being exceeded. The matter had been discussed with NE who advised they were willing to assist in a continuous survey in the Wash which was designed to assess the carrying capacity of the Wash. Funding for this could be taken from the Research Fund but also NE would be willing to provide some funding.

Councillor Williams did not feel there should be any further increase in productivity of the food chain until further information was available on the carrying capacity of the Wash. However, others felt more information was needed prior to making such a resolution.

ST09/13 DEPUTY CLERK'S QUARTERLY REPORT

Members agreed to note the report.

ST09/14 SENIOR RESEARCH OFFICER'S QUARTERLY REPORT

Members agreed to note the report

ST09/15 MARINE ENVIRONMENT OFFICER'S QUARTERLY REPORT

Members were advised meetings would be taking place which would hopefully address the concerns expressed by fishermen to NE regarding the proposed protection of Sabellaria Reefs.

Mr Pinborough questioned whether a date had been set for consultation with regard to bird disturbance in the Stour & Orwell. The MEO advised meetings would be held in March and a consultation period was set for June.

ST09/16 ESFJC BUSINESS PLAN FOR 2009/2010

Mr Pinborough commented that he was pleased to see the objective to provide a framework that was designed to promote and develop RSA activities.

ST09/17 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 Paragraphs 8 & 9 of Schedule 12A of the Act.

Proposed: Councillor Turner Seconded: Councillor Williams

Mr Sooben was permitted to stay as he represented the MFA and it was believed he could contribute to the discussions

ST09/18 CLERK'S REPORT ON TWO APPLICATIONS MADE UNDER ESFJC BYELAW NO. 15

Following the confirmation of Byelaw 15 six months had been given to apply for a derogation for vessels over 14m to fish for bivalve molluscs in the Joint Committee's district. The six month period had passed and two applications had been received.

Limited evidence of fishing prior to 1st January 2008 had been provided for both vessels. The Clerk felt this was largely due to there previously being no requirement to retain evidence of this type of fishing as it was not required by the MFA and it took place outside the boundaries of the Wash Fishery Order 1992. Members were advised that both of these vessels were local vessels crewed by local fishermen, with a carrying capacity of approximately 8- 10 tonnes. Members were also reminded that should a derogation be given it would be withdrawn if the vessels were to be sold.

Members considered the application, taking note that the carrying capacity was less than many of the smaller vessels and it could not be modified to carry more or it would lose its ability to relay in to the Wash.

It was Resolved to grant derogations for both vessels for the area defined under 3a of Byelaw 15.

Proposed: Councillor Callaby Seconded: Councillor Williams

ST09/19 DEPUTY CLERK'S REPORT ON THE TRIAL OF A VESSEL MONITORING SYSTEM

Members were aware that the Officers were looking into ways of remotely tracking vessels working within the confines of the Wash Fishery Order 1992. In line with this both AIS and VMS tracking systems had been considered. A trial had taken place with a VMS unit onboard Three Counties which had proved very successful. Prior to the trial the Officers had put in an application for European funding towards a tracking system basing the application on the cheaper AIS system. However, following concerns expressed by Committee Members about the AIS system being open for anyone to view and the lack of confidentiality the Officers had decided to go down the route of using a VMS system. Having successfully secured the European funding the Clerk had written stating that it was now the intention to use the alternative system and questioning whether the funding could be put towards the purchase of the VMS units. The response had not been favourable, stating that the Committee could not have additional funding and the system should have been in place by November 2008 therefore the Committee were in breach of the process. The Clerk had not asked for additional funding and was baffled at how the equipment could be in place by November 2008 when confirmation that the bid for funding had been successful was not received until December. Mr Sooben advised that the normal process for funding is that the grant must be confirmed prior to the purchase going ahead or the funding may be withheld which was quite the opposite to the response received by the Clerk.

The Clerk had also been advised that a reason for turning down his request was that it may not be value for money as Defra were considering installing VMS on all fishing vessels over 10 metres in overall length in the future. The Clerk felt that this would not take effect until 2012 at the earliest and also the Committee would not necessarily get the information they required. Mr Sooben confirmed that the system being operated currently in the Isle of Man did not provide real time data.

There was concern amongst the industry members about what the cost would be to individual fishermen. The Clerk advised there would be no cost to the fishermen as the Committee would provide the unit and pay for the maintenance and airtime package. The only cost to the fishermen would be replacement of a unit if it could be proven the unit had failed as a result of malicious damage. Whilst the Clerk acknowledged this was a considerable amount of money to find initially NE had advised that they would be prepared to provide up to 50% of the initial cost as they believed it was a benefit to the management of the fisheries.

Industry members questioned the use of the system, and where advised it would only be set up to provide data on vessels fishing for cockle and mussel within the boundaries of the Wash Fishery Order, once a vessel moved out of the defined area the unit was geo-fenced to stop reporting.

It was Resolved that:

The Clerk should advertise an invitation to tender for the provision of a Vessel Monitoring System to monitor up to 68 fishing vessels operating within the Wash Fishery Order 1992.

The Clerk, Deputy Clerk, Finance Officer, Chairman and Vice-Chairman should convene and review completed tender documents and make recommendations to a Wash Management Sub-Committee regarding their findings.

The Wash Management Sub-Committee be delegated the powers to make a determination regarding the award of any tender.

The Officers continue to pursue European funding towards installation of the system.

Proposed Councillor Williams
8 votes in favour
1 vote against
0 abstentions

Seconded: Councillor Callaby

There being no other business the meeting closed at 1225 hours.