

**MINUTES OF THE BOARD MEETING HELD ON
16 JULY 2010 AT 1000 HOURS**

Present:

Mr D Ellis	Chairman
Capt M Sansom	Chief Executive and Harbour Master
Mr P Fish	
Mr J Langan	
Dr K Sumser-Lupson	(via conference call)
Mr R Yates	
Mr R Reed	
Mr P Morgan	
Ms L Allan	Finance and Administration Manager

Apologies: None.

The minutes of the June Board Meeting were approved and signed, subject to note amendment on page 1.

Make Appropriate Assessment Decision of the Port of Falmouth Development Initiative (Nicola Solly in attendance):

Nicola Solly (NS) was introduced as the author of the report on the Port of Falmouth Development Initiative, Information for Appropriate Assessment, prepared on behalf of FHC by Royal Haskoning (RH).

MS stated that it is the duty of each competent authority involved in the proposed project to make a decision as to whether the works will have an adverse affect on the integrity of the Fal and Helford Special Area of Conservation. He reminded the Board that whilst they had commissioned advice from Royal Haskoning, the decision was theirs to take and they must satisfy themselves of the merits of the cases before taking the decision.

NS pointed out that it was a complex decision and a reasonably contentious case. Natural England (NE) have advised that in their view, the proposed works would have an adverse effect on the SAC. RH have considered the likely effects of the proposed works and the features for which the SAC was designated. Given the scale of the proposed works in comparison to the extent of the maerl, they believe that it is open to the Commissioners to conclude that there would not be an adverse effect on the integrity of the SAC.

NS reported that NE were concerned about the direct effect on the maerl present on the Falmouth Bank, the destruction of the maerl matrix during translocation and the rates of re-colonising. RH agree that whilst it is inevitable that some damage to the maerl matrix will occur during translocation the resulting community that recolonises will be representative of maerl beds and will make a valuable contribution to the SAC. Furthermore, their studies had shown that only 2% of dead maerl within the SAC (19 Hectares) will be affected by the project and that this area of habitat will not be lost but rather affected in the medium term.

FHC had commissioned a study by Dr J Hall-Spencer of Plymouth University, who is expert on maerl habitats. His conclusions were that for the full community to recover it could take between 20-50 years, but in context to the value of the community of the SAC the majority of species will establish before 20 years. NE have accepted his report. RH were of the view that the maerl would recover sufficiently to make a contribution to the SAC well before 20 years.

NS advised the Board that there is a route open to conclude that there would be no adverse effect on integrity of the SAC, but that NE have the opposite view. RH are of the view that the conservation objectives for the SAC are of relevance to the Assessment. NS stated that Regulation 33 advice issued by NE details a target that there should be no reduction in the extent of the maerl. The proposed works will not result in a reduction in the extent of maerl present in the SAC.

When asked, NS reported that when consulted about the draft report, NE advanced the view that the deep maerl banks that would be affected by the dredging should be considered to be a unique feature of the SAC and that the scale of the impact on the maerl overall should not be the key consideration. It was noted that NE had initially provided the Regulation 33 guidance to RH which indicated that the target is the extent of all maerl rather than the individual types of maerl bed. Therefore RH consider that it is not appropriate to consider the loss as a percentage of deep maerl banks.

When asked, NS reported that the removal of the contaminated material would have an overall benefit on the SAC, and this was accepted by NE. This would make a positive contribution to water quality which was also considered in the management scheme.

Queries were raised in respect of the Water Framework Directive (WFD) and the impact it could have, NS reported that separate assessments had been done and not, as yet, been cross referenced. NE have not asked for WFD to be assessed, but RH have included the benefits to water quality in their report as the improvement was relevant to an assessment of the integrity of the SAC.

It was stated that the MMO would take into account all the information received to date when making their own Appropriate Assessment decision and that NE may put forward counter arguments to this report.

NS pointed out that there had been very few other cases affecting maerl and RH have looked at cases involving percentage losses. It was discovered that there was no generally accepted percentage loss in the UK and no thresholds set. Although the scale of impact should be taken into consideration, rarity and vulnerability of the habitat also need to be considered.

The Chairman asked if there were any further questions or points that anybody wished to make. There were none and the Chairman asked the members to vote as to whether they had concluded on the basis of the report, the views and advice received from Natural England and the further explanation given at the meeting that the proposed works would or

would not have an adverse effect on the integrity of the SAC. The Board members were unanimous that in their opinion the proposed works would not have an adverse effect on the integrity of the SAC.

To summarise their decision, the Board approved the following wording “The Board concluded that the PFDI will not have an adverse effect on the integrity of the Fal and Helford Estuaries SAC, either alone, or in combination with other plans and projects. The reason for this conclusion is that less than 2% of dead maerl within the SAC will be affected by the proposals and only in the medium term. This scale of impact is of not sufficient magnitude to affect the overall coherence of the SAC’s ecological structure and function, particularly as the affected habitat will begin to recover and make a contribution to the site immediately.”

MS was tasked with circulating the draft minutes to RH for approval and then communicating their decision to the MMO and NE.

Matters Arising Not On This Agenda:

CEO reported that:-

- An advert in respect of the recruitment of an Apprentice had been placed and that interviews were likely to be held at the end of August. The Board would continue to be updated with the progress.
- Water Framework Directive studies were ongoing at a cost of between £1 to £1.5k. Also a formula for apportioning costs was being discussed with Mike Reynolds.
- JL was still negotiating a meeting between the Board and Cornwall Marine Network.
- The investment calculation for the new channel contribution was to be presented at the September Board meeting.

All other outstanding items were reported to be complete or to be dealt with later on in the Board Meeting.

It was agreed that matters arising from Sub-Committees would not be dealt with at this point, but individually through those Sub-Committees.

Reports from Sub-Committees:

Craft Review Sub-Committee

The interim report stated as work in progress was noted by the board.

Marine Operations Report:

The fire on the ARROW was reported and discussed. FHC’s insurance company are investigating the fire and meeting with the relevant contractors.

The Board commended the Mike Tuffery, Allen Stevens, Nick Martin, Alex Head and Will Davies on their exemplary handling of the situation. It was agreed that the actions taken by MT, AS, NM and AH was material in putting out the fire in while the boat was anchored promptly to ensure that the vessel did not drift into danger.

The Board commended the professionalism of the crew and members of FPP and approved that this should be expressed to the individuals personally. Will Davies' contribution in raising the standard of crew training was also recognised. It was agreed that the Chairman would write to each of the 4 involved as well as WD. It was reported that the lessons learned from the fire investigation would be applied promptly and any required changes to the LKM layout would be made during the current refit.

It was reported that it had been necessary to hire in the MTS Agility at £550 per day for 30 days with options for longer, it was hoped that the cost would be substantially covered under our Business Interruption insurance. The Arrow is likely to be released to FHC on 26 July 2010 for repairs which and a meeting with our Surveyors and WD had been arranged.

The navigation incident involving the Ionion Pelagos was discussed and it was agreed that no further action was intended.

It was noted that the top mark had been replaced on the Governor Buoy after it had been pulled off after being entangled in the rigging of a working boat.

Enforcement decisions:

A case was reported of an oil sheen caused by a vessel on the Yacht Haven. Whilst the evidence was mainly circumstantial, the owner had admitted that he knew of a problem that caused an oil leak under certain circumstances. He had signed Dave Townson's note book to that effect. After discussion it was agreed to give a general warning / advisory letter from the Harbour Master.

Finance and Admin Report:

LA ran through the major items of the report for the period ended 31 May 2010 and briefed the board on the results.

The Board requested that the insurance excess provision in respect of the fire on ARROW should be provided for.

The Board expressed their satisfaction with the improved debtor days and results for the first 5 months.

Leisure Services Report:

It was noted that June's figures were pleasingly up on 2009.

The Board requested further analysis on the Fuel Barge pricing and profitability to be presented to the next meeting.

KTP Associate's Report:

CEO reported that the project was proceeding actively on a number of levels:-

- The inputs required by the PORTONOVO project were being met
- Projects being performed by the Marine School were on target
- Press coverage on the impact of anchors was positive and well received by Plymouth University
- Plans to revisit stakeholders, undertaken at the start of the project were underway.

Public Relations Report:

The Board stated their dissatisfaction in respect of a draft press release sent to them for approval. It was felt that the style was substantially different from previous releases and had become journalistic rather than strictly factual.

It was agreed that CEO inform DCA that FHC require factual press releases in the style that the Board are accustomed to.

Falmouth Port Development Initiative:

CEO reported on the meeting held on 16 June with MMO and NE to discuss appropriate assessments. It was generally a useful and constructive meeting and it had been agreed that the MMO had all the information it required to make its appropriate assessment.

It was apparent that the MMO rely on CEFAS to advise on their appropriate assessment and indicated that they may ask CEFAS to produce the assessment on their behalf.

After the meeting Sarah Newton MP was briefed at the House of Commons.

A Steering Group meeting was held on 24 June at which funding issues were discussed.

DE reported that he was trying to arrange a meeting between Kevin Lavery and Tyrone Allard of the Bailey Group to discuss the dredging.

Carleen Keleman visited FHC on 29 June and the meeting had proved to be very constructive and helpful.

A Working Group meeting was held on 2 July at which Option E was put forward as the optimal scheme.

CEO attended a Primare event in Plymouth on 5 July looking at the current progress on investing in renewables.

Pilots National Pension Fund:

A paper from Burges Salmon was tabled. It reported that the Judgement was out and that it stated that the Trustees had wide powers to demand contributions from all types of CHA. Even though this was not good news it also meant that the liability would be spread as widely as possible. Some ports are considering an appeal. The recovery plan is likely to be put forward in the next 2 – 3 months.

The Board noted the position and awaited further information in respect of the liabilities.

PORTONOVO Update:

K SL declared an interest, and removed herself from the meeting.

At the June Meeting, the CEO had been tasked with obtaining further advice in respect of potential conflicts of interest for K SL as a commissioner and her proposed role as a consultant in PORTONOVO. The advice was tabled at the meeting. Lesley Quirk, a governance issues expert, was unequivocal in her advice that a Board cannot have a Commissioner carrying out paid consultancy on behalf of the Board as it would put that Board's reputation at risk. It was reported that there had been discussions held between CEO and K SL plus between CEO, DE and K SL, therefore K SL was aware of the situation.

After some discussion it was unanimously agreed that the Board would ask K SL to decide whether she wished to undertake the consultancy or to remain as a Commissioner.

1300 adjourned for lunch

1400 recommenced with presentation by Lang Bennetts on the Audited Accounts to 31 December 2009 – K SL rejoined the meeting

To consider and approve Annual Accounts to 31 December 2010:

Jonathan Mashen of Lang Bennetts presented the Audited Accounts to 31 December 2009 to the Board. He proposed an unqualified report subject to the Accounts and Letter of Representation being signed.

Having received the management accounts to 31 May 2010 and the minutes of the Board meetings to 18 June 2010 it was confirmed that there were no material Post Balance Sheet events to notate.

Following the presentation and the responses to queries raised, the Board agreed the Accounts and Letter of Representation be signed after an agreed amendment.

The Board complimented LA on her efforts and work done and thanked RY for his contributions.

PORTONOVO Update (continued):

K SL was appraised of the Board's position. She regretted having to choose but felt that her continued involvement in PORTONOVA was essential if its aims were to be met. She agreed to confirm her resignation from the Board in writing at the end of the Board meeting. The Chairman also expressed regret that the situation had come about especially given the substantial benefits that the involvement in PORTONOVA would bring to the Board. He stressed that the Board would still be working with K SL as a consultant on a regular basis and hoped that she would apply to become a board member in the future when the project had been completed.

The Board considered the quotes presented for the purchase of the Data gathering buoys, CEO declared an interest as he had shares in one of the companies. There was a unanimous approval to obtain the 2 buoys from Triskel Marine.

Red Arrows Arrangements:

The Board reviewed the proposed list of invitees and discussions were held. CEO agreed that the invitations would be sent out by end of following week. Further invitations would be issued if there was a shortfall in acceptances.

Draft Annual Report 2009:

The Board was tasked with reading, digesting and providing comments within a week. It was planned that a final proof would be presented at the next Board meeting on 13 August 2010. It was suggested that instead of detailing the Commissioners reappointment date, it be their start date.

Correspondence:

The Board noted the request and approved an £800 donation to Helford River Children's Sailing Trust.

The Board agreed that places be booked to this year's British Port's Association Conference and that attendees be agreed at the next Board meeting.

Urgent Business:

Training cost of around £4k was approved for the 2 Assistant Harbour Masters to sign up for the Harbour Masters Diploma correspondence course.

Meeting Ended: 1535 hours

Date of Next Meeting: Friday 13 August at 1000 hours.

Signed, Chairman 17 September 2010