

THE RIVER STOUR (KENT) INTERNAL DRAINAGE BOARD

Minutes of the Meeting of the Board
held on Thursday 4 June 2009
at 2.30pm in the Board's offices at
34 Gordon Road, Canterbury

PRESENT

M J G Tapp, Esq (Chairman), A D Linfoot, O.B.E. (Vice Chairman), Messrs Councillor T Austin, G F Ellis, Councillor Mrs M Martin, Councillor B T Naughton, D Rogers, M P Wilkinson and Councillor J Woodford.

IN ATTENDANCE

Mr Iain Murrell (Water Resources Technical Specialist - Kent & East Sussex Area, Environment Agency), Mr Paul Marshall (Operations Delivery Team Leader -Lower Stour Area, Environment Agency), Mr John Davis (IDB Contracts Manager, Rhino Plant Hire), Mr Peter Dowling (Engineer to the Board) and Mr Derek Lewis (Clerk of the Board).

APOLOGIES FOR ABSENCE

Apologies for absence were received from Mr D M Botting, Councillor A Bruce, Mr I R Cooling, Mr P S Dunn, Mr P E Dyas, Mr P Howard, Mr I G Steed and Councillor C J (Kit) Smith.

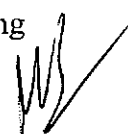
WELCOMING

The Chairman welcomed Mr Iain Murrell and Mr Paul Marshall to the meeting. The Chairman stated that Mr Murrell and Mr Marshall would shortly make statements on Environment Agency related matters and answer any questions raised on these by the Members.

The Chairman also welcomed Mr John Davis to the meeting. The Chairman stated that Mr Davis would be willing to answer any questions related to the Board's Maintenance Works and Water Level Control contracts.

REPLACEMENT/REFURBISHMENT OF THE MILE AND GOSSHALL PUMPS BY THE ENVIRONMENT AGENCY

Mr Iain Murrell (Water Resources Technical Specialist – Kent & East Sussex Area, Environment Agency) reported that the Environment Agency were presently installing flow metres at both pumping stations in order for the Environment Agency to comply with the conditions of the Abstraction Licences (ie to accurately record the quantities of water being



pumped). This work is scheduled to be completed by 10 June 2009. Mr Murrell further reported that major refurbishment/replacement works to the pumps will not take place until Autumn 2009 so that normal pumping activities can continue unaffected throughout the summer months. Mr Murrell however assured the Board that funding of more than £300,000 had been secured for the refurbishment/replacement works in order to ensure that the pumps were fit for purpose for the next 20 years.

Mr M P Wilkinson declared an interest being a landowner affected by the pumping regime in the Chislet Marshes. Mr Wilkinson however complimented the Environment Agency Local Officers for their work on the ground but was slightly critical that the project management process has prevented this work being completed before the start of the irrigation season. Mr Murrell acknowledged that the process should have gone smoother and stated that efforts are now being made to ensure minimal disruption. Mr Paul Marshall, the Environment Agency's Operations Delivery Team Leader for the Lower Stour Area, stated that his Team were doing everything possible to maintain normal summer water levels through gravity feeds until it was possible to operate the pumps again.

ENVIRONMENT AGENCY OTHER WORKS

The Chairman invited Mr Paul Marshall, the Environment Agency's Operations Delivery Team Leader for the Lower Stour Area to advise the Members on some of the other works the Environment Agency has completed in the Board's District. Mr Paul Marshall thanked the Chairman for being given the opportunity to address the Members. Mr Marshall stated that following a malfunction of the Sarre Tilting Weir his Team has started using the Mile Cut Railway Sluice (Sevenscore Feed) to feed water into the Chislet Marshes. Mr Marshall also advised the Members that an automatic weed rake had been installed at the Stourmouth Pumping Station and that a ladder had been fitted in the Coldharbour Sluice chamber to enable easier inspection of the chamber's inner doors. Mr Marshall also reported that the Poulders Pump at Sandwich would be replaced shortly and that the replacement/refurbishment of the Worth Minnis Pump would follow. The Chairman thanked Mr Marshall for his update on Environment Agency works.

MINUTES OF THE MEETING OF THE BOARD HELD ON THURSDAY 12 FEBRUARY 2009

The Minutes of the meeting of the Board held on Thursday 12 February 2009 were received. It was proposed by Mr A D Linfoot, seconded by Councillor T Austin and resolved that the minutes be confirmed and signed by the Chairman as a true record of the proceedings at that meeting.

MATTERS ARISING FROM MINUTES

There were no matters arising from these minutes.



MINUTES OF THE MEETING OF THE FINANCE, GENERAL PURPOSES AND WORKS COMMITTEE HELD ON TUESDAY 12 MAY 2009

The minutes of the meeting of the Finance, General Purposes and Works Committee held on Tuesday 12 May 2009 were received. It was proposed by Mr M P Wilkinson, seconded by Mr A D Linfoot and resolved that the minutes be received. The Chairman reported that the low turnout at this meeting was mainly due to having to change the date of the meeting at short notice in order to accommodate the necessity of him and the Engineer attending the ADA Floods and Water Bill Workshop at Peterborough.

MATTERS ARISING FROM MINUTES

Ref: A.3-13

Draft South East River Basin Management Plan

The Chairman asked the Engineer to update the Members on his progress in respect of the Board's response to the Draft South East River Basin Management Plan. The Engineer stated that he had at long last received some detailed maps from the Environment Agency but was scheduled to visit the Environment Agency's Project Manager early next week in order to obtain as much information as possible prior to submitting the Board's response.

REPORT OF THE ENGINEER FOR THE PERIOD 1 JANUARY 2009 TO 30 APRIL 2009

IDB Programme of Works – Weed Control

The Engineer reported that the effect of placing netted barley straw at various locations on Hacklinge Marshes which was carried out in 2008 in order to address the problem of excessive growth of algae is still to be assessed. However, early indications are that algal growth is still significant. Discussions will continue with Natural England and the Environment Agency to agree a suitable plan of action to address this problem. Mr John Davis (IDB Contracts Manager, Rhino Plant Hire) reported that a stretch of the Sandhills Sewer (IDB 272) between Walnut Tree Farm and the Chequers Public House where algal growth had been particularly severe was now fairly clear. The Engineer stated this could be attributed to a range of measures that have been put in place which included increased flows, de-silting and the placing of barley straw nets.

Members' Inspection Day – Tuesday 21 July 2009

The Chairman reported that Tuesday 21 July 2009 has been provisionally suggested as a good day to hold a Members' Inspection Day and Tour of the Drainage District. The Chairman stated that the Clerk and Engineer have several good ideas which would make the day most interesting for all Members. It was therefore agreed that Tuesday 21 July 2009 be set as the date of the Members' Inspection Day.



Planning Applications – Ashford Borough Council

09/00003/EIA/AS Land south of the M20 at Smeeth/Aldington, Ashford
- Proposed Operation Stack Lorry Park

Councillor Mrs Marion Martin (Ashford Borough Council) asked who was making the application and who owned the land? The Engineer stated that as far as we are aware, the land is in private ownership and it is still unclear who will be submitting the formal planning application.

REPORT OF CLERKDrainage Rate Income

The Clerk reported that the Board has to date received £36,864 of drainage rate income, which is approximately 60% of the total of the 2009/2010.

Special Levy Income

The Clerk confirmed that all the first instalments of the Special Levies, which totals £240,422, had been received by the Board on 1 May 2009.

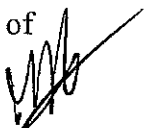
FLOOD DEFENCE

Ref: W.1-3 Defra Consultation on the Modernisation of Salmon and Freshwater Fisheries Legislation; New Order to Address the Passage of Fish

The Chairman reported that the Board had been asked by ADA, at very short notice, to comment on the above consultation. The Chairman stated that there was not enough time to consult fully with the Finance, General Purposes and Works Committee so the Clerk and Engineer put together a draft response for the Vice Chairman and his consideration. The Chairman reported that some of the proposals contained in the draft consultation could have a financial and operational impact on the Board so it was very important that the Board reported these concerns to ADA for inclusion in ADA's submission to Defra. The Clerk reported that ADA was most grateful for the points raised by the Board and many have been included in ADA's submission to Defra. Any Member wishing to receive a copy of ADA's submission to Defra should inform the Clerk.

Ref: W.1-23 Draft Flood and Water Management Bill

The Chairman reported that a Draft Flood and Water Management Bill was laid before Parliament on Tuesday 21 April 2009 and has been published for consultation for a period which ends on 24 July 2009. Once enacted, the law will cover all forms of flooding and shift the emphasis from building defences to managing risk. The Bill will also implement some of the key recommendations made by Sir Michael Pitt in his independent review into the 2007



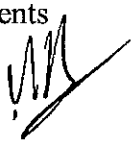
summer floods. This will include giving local authorities a clear leadership role in local flood risk management, encompassing all sources of flooding. The Draft Bill also introduces a modern risk based approach to reservoir safety to replace the current system where regulation depends on the size rather than the risk posed to surrounding communities. In addition to provisions on flooding, the Draft Bill includes important measures to improve conservation of water resources in times of drought and to improve the regulation of the water industry. The Bill will also enable water companies to develop new ways of delivering large infrastructure projects. The Chairman stated that in addition to the proposals contained in the Draft Bill there are a number of policy issues not covered by the draft Bill provisions which are of particular interest/concern to Internal Drainage Boards. These include the following points as listed by the Clerk in his report to the Finance, General Purposes and Works Committee:

1. Possible reforms to the Role and Governance of IDBs
2. IDB Supervision and Regulatory Roles.
3. To allow IDBs to form consortia, private companies and other innovative delivery models.
4. Simplification of the order making process for boundary alteration and amalgamation.
5. To relax the restrictions currently imposed by the "Medway Letter".
6. To move the supervision of IDBs from the Environment Agency to County and Unitary Local Authorities.
7. To adjust the membership of IDBs.
8. To allow the Secretary of State to make regulations determining the structure of IDBs.
9. To review the current funding structure including the role of charges and rates on agricultural landowners and farmers; Local Authority prioritisation of funding; Local Authority funding for IDBs; to review the circular payments between IDBs and the Environment Agency.

The Chairman therefore considered the Draft Bill to be an extremely important consultation document which not only will have a serious impact on the duties and powers of IDBs but will also have serious implications on local authorities.

There followed a lengthy discussion on all of the above points with the greatest emphasis being on the proposed restructuring of IDBs and the proposals regarding the changes to funding. The Chairman stated that he and the Vice Chairman will be working closely with the Clerk and the Engineer in order to produce the Board's formal response and urged all Members to give the consultation proposals their consideration and to forward any comments they would like to make to the Clerk/Engineer as soon as possible.

PLANNING



Ref: W.5/RMP

Draft Reculver Master Plan

The Clerk reported that the Draft Reculver Master Plan, which aims to “develop Reculver as a high quality strategic hub for green tourism and education”, has been published for consultation. A key aspect of the draft plan which arises from the Shoreline Management Plan’s proposals for managed realignment is the development of the West Wantsum area in the long term as a new nationally recognised and managed wetland habitat and a major extension to the Reculver Country Park. The statutory consultation period runs from Thursday 30 April 2009 to Friday 12 June 2009.

The Chairman declared a major interest in this item as one of the proposals contained in the Draft Master Plan refers to flooding approximately 500 acres (200 hectares) of agricultural land, part of which he has an ownership interest. The Chairman therefore asked the Vice Chairman to take over the Chairmanship of this item.

The Vice Chairman reported that the Clerk and the Engineer had produced a draft response to the Draft Reculver Master Plan Consultation for the Board’s consideration and held a workshop/briefing earlier this morning to which Councillor Tony Austin (Canterbury City Council) had attended.

Councillor Tony Austin declared an interest as a Member of the Canterbury City Council Executive who issued the consultation.

The Vice Chairman stated that he had discussed the Board’s proposed response with the Clerk and Engineer and was of the opinion that the Shoreline Management Plan (SMP) is the best way to deal with these matters. Mr G F Ellis asked Councillor Austin why the City Council was promoting this plan. Councillor Austin stated that the main driver is the regeneration and improvements to the Reculver Country Park. Mr Ellis considered that it was ridiculous to flood good agricultural land. Mr M P Wilkinson considered that the Northern Sea Wall sea defences has done a very good job of protecting this valuable agricultural land in the past and that maintenance costs of maintaining these sea defences must be low compared with constructing a new defence at the railway line. A copy of the following proposed response to Canterbury City Council was circulated:

“Proposed IDB response to Reculver Masterplan Consultation

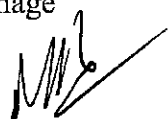
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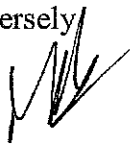
Dear Sirs

Re: Reculver Masterplan Consultation

Thank you for your letter of 28 April 2009 regarding the above consultation. Our comments in respect of the consultation proposals, on behalf of the River Stour (Kent) Internal Drainage Board, are as follows:



1. The Board supports proposals that protect and enhance existing wildlife habitats and species and supports schemes that seek to create additional areas that provide benefits to green-tourism, local economy and wildlife where these complement flood risk reduction measures.
2. The main area which has the potential to affect the Board's interests is Zone C, the proposed West Wantsum Wetlands. The whole of this area lies within the Board's Internal Drainage District and will directly affect three Board maintained watercourses, the Reculver Lead Dyke (IDB133), Rushbourne Wall Lead Dyke (IDB134) and Twelve Foot Dyke (IDB136).
3. The Isle of Grain to South Foreland Shoreline Management Plan currently sets a policy to "Hold the Line" in the short term (0-20 years) for the Reculver to Minnis Bay section of coast and "Managed Realignment" for the medium term (20-50 years) and long term (50-100 years). Whilst these medium to long term policies may in future be proved to be appropriate, no details are yet available. The SMP and the Reculver Masterplan acknowledge the fact that further detailed studies will need to be completed before a final decision can be taken. These detailed studies should be carried out as part of the scheduled SMP reviews which are to take place every seven years, with the next review being scheduled for 2014. There is serious concern that the Reculver Masterplan may be taking these indicative medium and long term policies of "Managed Realignment" as firm and absolute, and has therefore planned around them. The Board feels that this could lead to the Reculver Masterplan significantly influencing the higher level SMP policy. Furthermore, the proposals for the implementation of Phase 4 are scheduled to commence in 15 years, when the SMP policy will still be to "Hold the Line" for at least a further 5 years. If formally adopted as "material consideration" in determining new planning applications, prior to SMP review and more detailed studies, the Reculver Masterplan could contribute towards setting potentially inappropriate SMP policies.
4. The maximum extent of retreat under the possible future "Managed Realignment" policy is stated to be as far as the existing railway line. If this is the selected option significant construction works will be required to create a new secondary defence in front of the existing railway line requiring considerable capital investment. Estimated costs of this work will need to be established and published as soon as possible in order for a comprehensive assessment to be made in respect of this proposal.
5. It is not clear from the proposals to what extent water levels will be increased in the area, or how the existing sea defences will be breached. These proposals need to be clarified in greater detail in order to establish what the potential effects will be on the remainder of the Chislet marshes, properties and infrastructure.
6. Three main watercourses run through the West Wantsum area (River Wantsum, North Stream and Chislet Pump Channel). These watercourses receive and convey water from the Chislet Marshes, including the residential areas of Boyden Gate and Marshside. Flows from the Sarre Penn also discharge into the River Wantsum. Raising water levels in the downstream end of the drainage system will have a knock-on effect to upstream water levels and flood risk. It is therefore essential that the proposals do not increase flood risk in these areas, or adversely affect the current water level management regime.



7. The Reculver Pumping Station, alongside Northmouth Sluice, pumps water from the Chislet Pump Channel and is also used to reduce levels in the North Stream when it is tide locked in order to minimise flooding to the Boyden Gate and Marshside residential areas. If the line of defence is retreated a new pumping station will need to be constructed on the new defence line to manage upstream water levels and flood risk. This pumping station and the necessary improvements to the main watercourses and water level control structures will need to be investigated and costed as part of the overall scheme.

8. The consultation document states that local businesses appear to be largely unconcerned. However, the Board has been made aware that agricultural interests appear to be inadequately considered, in view of the fact that the proposals will mostly affect agricultural land. It is therefore recommended that land owners are directly consulted in the development of the detailed proposals. It also appears that long term consequences of land loss, reduced crop yield and the subsequent environmental impacts of importing the quantity of lost crop for future years are not being adequately assessed. All impacts on the local and wider environment need to be taken into account when assessing benefits and impacts.

9. Whilst the potential environmental benefits to be gained from the proposals are welcomed if they are proved to be viable, it is believed that adverse impacts on the existing environment need to be more fully explored and the details published. This needs to include impacts upon the existing freshwater habitats throughout the whole of the Chislet Marshes in addition to the environmentally designated coastal sites.

Thank you once again for consulting with the Board in respect of the draft Reculver Masterplan. As the proposals have the potential to directly affect a significant area of the Board's district, the Board wishes to remain fully involved in all future consultations regarding the proposals.

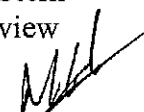
Yours faithfully"

Councillor Austin stated that following the briefing he received this morning from the Board's Clerk and Engineer he strongly supported the above response to the Draft Reculver Master Plan. It was therefore proposed by Mr M P Wilkinson, seconded by Mr G F Ellis and resolved that the above proposed response be forwarded to Canterbury City Council in respect of the Draft Reculver Master Plan Consultation.

FINANCE

Ref: F.1-2 Review of Internal Control and Internal Audit Arrangements

The Chairman reported that Mr Ian Cooling has agreed to join the Vice Chairman and Councillor Austin as Members of the Board's Internal Audit Arrangements Review Team for 2009. The Chairman stated that it has also been agreed that the best way forward for the future would be for one member of the Audit Review Team to drop out after completion of their audit review following the appointment of one new member. The Vice Chairman asked the Clerk to provide each member of the Audit Review Team with copies of the last two Audit Review



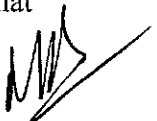
Team reports prior to the commencement of the 2009 audit review. The Clerk stated that he would do this.

Ref: F.1-5 External Audit Arrangements – Defra Advice on the Legality of IDB Consortia and IDB Joint Working Arrangements

The Clerk reported that Defra has recently received advice from the Audit Commission regarding the legal basis for the provision by IDBs of management services to other IDBs and IDB consortia. The Audit Commission has therefore advised Defra that there is a limited basis for consortium arrangements in the Land Drainage Act 1991, and unlike the position for amalgamation, the Land Drainage Act 1991 does not set out a detailed procedure for forming these. The Audit Commission therefore sought Legal Counsel's advice about these arrangements. Legal Counsel advice confirms that an IDB, or a group of IDBs, may in principle arrange for a private company to provide the IDB, or group of IDBs, with management services. Legal Counsel has also advised that that a group of IDBs may also in principle arrange for management services to be provided to them through a consortium arrangement. However, where one IDB provides another IDB with management services in return for a fee, it is likely to be *ultra vires*, unless the particular terms or circumstances of the arrangement are such that the providing IDB can demonstrate that they are incidental to the performance of its own functions. It is also important to note that IDBs do not have powers to set up limited companies or separate corporate bodies, and must not delegate their discretionary powers to any other IDB or agent. Discretionary powers must remain with the Board itself whatever the arrangement. In addition Legal Counsel have stated that even if the provision of services by an IDB to another IDB is *intra vires*, it is nevertheless likely to be unlawful for it to provide those services at less than cost price, if it derives no other benefit from the arrangement. As a result of receiving this advice, Defra considered that it was important to bring it to the attention of all IDBs. If on reading the advice, any IDB is concerned that part of their operations may not meet this legal interpretation, and then Defra encourages the IDB to seek independent legal advice, and seek to resolve any issues at their earliest convenience. Defra also recommends that IDBs notify their external auditor about any concerns they may have about actual or possible *ultra vires* operations or contracts.

The Clerk further reported that the Board has an existing arrangement with the Lindsey Marsh Drainage Board for the provision of part of our rating requirements, which includes the printing of demand notices and maintaining the rating database. The Board is invoiced for these services by the Lindsey Marsh Drainage Board and the cost charged to the Revenue Account. The Board has always considered this service to be good value for money. Following receipt of the Defra advice contact was made with Lindsey Marsh Drainage Board in order to check the legality of our existing arrangement. Following discussions with the Chief Executive of the Lindsey Marsh Drainage Board, the Clerk has been advised that in order for the service to continue Lindsey Marsh Drainage Board would need to invoice the Board in future for actual costs based on timesheets. Lindsey Marsh Drainage Board however confirmed that actual costs based on timesheets would still be about the same amount as our present charge. The Board therefore needs to agree that it is satisfied that this joint working arrangement is legal.

The Vice Chairman stated that the Board's Internal Auditor, Mr Kevin Funnell, has commented on these matters in his final internal audit report for 2008/2009 and considers that



Lindsey Marsh Drainage Board will have to ensure that the full cost of providing the rating service is charged to the Board and that it will be up to Lindsey Marsh Drainage Board to prove that the charge they make to the Board is the actual costs. It was therefore proposed by the Vice Chairman, seconded by Mr G F Ellis and resolved that the legality of this arrangement be a matter for consideration by the Lindsey Marsh Drainage Board.

Ref: F.1-5 Accounts for the Year Ending 31 March 2009

The Chairman reported that the Clerk had prepared and balanced the accounts for the year ending 31 March 2009 in accordance with the Account and Audit Regulations. The Chairman invited the Members to raise any questions they may have in connection with the accounts. It was proposed by Mr M P Wilkinson, seconded by the Vice Chairman and resolved that the accounts for the year ended 31 March 2009 be approved.

Ref: F.1-5 Audit Commission Annual Return for the Year Ended 31 March 2009

The Clerk reported that Section 1 (Statement of Accounts) and Section 2 (Annual Governance Statement) of the Audit Commission's Annual Return for the year ended 31 March 2009 have been prepared for the Board's approval and Chairman's signature. The Clerk further reported that Section 4 (Annual Internal Audit Report) of the Audit Commission's Annual Return had been completed and signed by the Board's Internal Auditor, Mr Kevin Funnell.

It was proposed by the Vice Chairman, seconded by Mr M P Wilkinson and resolved that Sections 1 and 2 of the Audit Commission's Annual Return for the year ended 31 March 2009 be approved and signed by the Chairman.

Ref: F.1-2 Final Internal Audit Report for 2008/2009

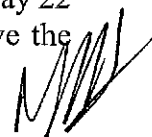
The Clerk reported that Mr Kevin Funnell, the Board's Independent Internal Auditor, visited the Board's offices on 14 May 2009 and carried out his final internal audit inspection of the Board's records for 2008/2009. A full copy of Mr Funnell's report dated 14 May 2009 was provided to each Member.

It was proposed by Mr G F Ellis, seconded by Councillor J Woodford and resolved that the Final Internal Audit Report for 2008/2009 be approved.

ANY OTHER BUSINESS

Ref: A.3-2 Election of Elected Members

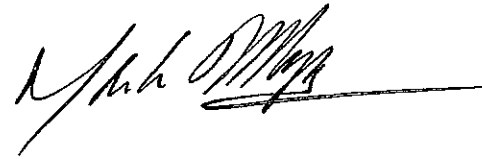
The Clerk reported that in accordance with the Land Drainage Act, 1991 the Board is required to hold an election for its Elected Members during 2009. The election is required to take place between the 18th October and 1st November so it is therefore suggested that Thursday 22 October 2009 be set as the date of the election. The Board is also required to approve the Register of Electors that has been prepared.



It was proposed by the Chairman, seconded by the Vice Chairman and resolved that Thursday 22 October 2009 be set as the date of the election and that the Register of Electors be approved.

MEETING CLOSED

There being no further business, the Chairman declared the meeting closed and thanked the Members for their attendance.

A handwritten signature in black ink, appearing to read 'N. Smith', with a horizontal line underneath.

20 August 2009

The Chairman