

## **Broads Authority**

### **Navigation Committee**

Minutes of the meeting held on 7 June 2012

#### **Present:**

Mr D A Broad (Chairman)

Sir Peter Dixon  
Mr P Durrant  
Mr M Heron  
Mr A Goodchild

Mr J Knight  
Mr A S Mallett  
Mr P E Ollier

#### **In Attendance:**

Dr J S Johnson – Chair of Broads Authority  
Mr S Birtles – Head of Safety Management  
Mr C Brown – Solicitor  
Ms R Evitt – Administrative Officer  
Mr R G Holman – Director of Change Management and Resources  
Dr J Packman – Chief Executive  
Mr R Rogers – Head of Construction and Maintenance  
Mr A Vernon – Head of Ranger Services

#### **5/1 To receive apologies for absence**

Apologies for absence were received from Mr L Betts, Ms S Blane, Mr P Greasley and Mr M Whitaker.

#### **5/2 To note whether any items have been proposed as matters of urgent business**

There were no items of urgent business.

#### **5/3 To receive Declarations of Interest**

Members expressed their declarations of interest as set out in Appendix 1 to these minutes.

#### **5/4 Public Question Time**

No questions had been received.

#### **5/5 To receive and confirm the minutes of the meeting held on 19 April 2012**

The minutes of the meeting held on 19 April 2011 were approved as a correct record and signed by the Chairman.

## **5/6 Summary of Progress/Actions/Response Taken Following Discussions at Previous Meetings**

Members noted that work was progressing with Trowse Bridge and that there had been sufficient time to test all the jacks. As the bridge was fully automated with an electronic system the checks were costly and time consuming. The bridge was therefore operating intermittently at the present time. However officers were confident that the work was going well and that the bridge would be back in full working order soon.

## **5/7 PRISMA Progress Update**

Members received a report which set out the progress on the programme of projects which were planned for the development of sustainable dredging techniques, treatment and disposal, as funded by the European Interreg initiative.

Members noted that the benefits of PRISMA were wide reaching and had afforded the Authority the opportunity to experiment with new dredging techniques using alternative equipment. Officers had also been given the opportunity to look at new pump technology.

However, members asked that the financial benefits to the Authority be made clear in future reports.

Members commented on the recent visit to Duck Island. It was noted that the team had contributed to an excellent piece of work.

Members enquired about the use of PRISMA monies to purchase land for the disposal of dredged material. Officers commented that land in Norfolk was still at a premium; and there were complications as the Authority needed land at key locations. It was noted that the Authority had employed a Land Agent to research and investigate possible sites but unfortunately none had been identified which were available to purchase. Members noted that officers had more recently identified two parcels of land that may meet the Authority's specifications.

Members raised concerns regarding the high level of consultancy fees related to the PRISMA programme. Officers reported that consultants had played a key role in the partners obtaining the European funding and the costs were high partly because of the need for all paperwork and correspondence to be translated into several languages.

## **5/8 Boat Owners Survey**

Members received a presentation from the Chief Executive regarding the result of the recent Boat Owners Survey. A copy of the presentation would be circulated to members following the meeting.

It was noted that, at a recent meeting with the Broads Hire Boat Federation, the suggestion of asking similar or identical questions of hirers had been welcomed. Officers would be following this up.

## **5/9 Priorities for Future Navigation Expenditure including Breydon Water**

Members received a report which sought the views of the Committee on a number of options for future expenditure in order that these views could be taken into account in the development of the financial strategy for the next three years.

Members noted that a loan had been procured to take over the Dockyard operation in 2009. The loan was payable over a 20 year period. One option would be to pay the loan off early but there would be a premium payable of approximately £52,500 for early payment. It was suggested that this option might become more attractive once more of the capital had been paid off.

Members suggested the possibility of using the proposed quay heading in the Upper Thurne as a 24 hour mooring when it was not in use as an offloading point. Officers agreed that this was indeed a possibility. Members noted that increased mooring facilities had been the highest priority within the user's survey.

Information was requested regarding the Breydon de-masting moorings. Members noted that wooden dolphins had been in use either side of Breydon Bridge but after serious deterioration had been replaced by jug handles on marker posts. These had also deteriorated with time. Officers reported that there had been a suggestion of also constructing some pontoons upstream of Breydon Bridge; however due to the height of the waves in this area it was felt that a pontoon would not be safe. It was agreed that officers would look into options to make the de-masting process safer. It was also noted that such provision would be helpful for boats waiting for passage up the Bure.

Members noted that officers had identified the need for a launch which was specific to the needs of patrolling Breydon Water, as the current vessels were not ideal for the conditions. A more practical launch was needed which would enable officers to go out in all weathers. It was noted that this vessel would also have its uses in other areas, including salvage and tree work.

Members enquired how the acquisition of a new launch would fit in with the current launch replacement programme. Officers reported that the new vessel could be used by the works team as well as a wide range of other tasks that currently could not be performed by any of the Authority's available launches.

Members noted that several of the Authority's mud wherries were very old and needed replacing. It was reported that one had been ordered using PRISMA funds but that ideally at least another three would need to be acquired.

Officers reported the success of the Uniflote pontoons which had been used flexibly to provide floating work platforms around the Broads. However, they were predominantly constructed from steel which did rust so a replacement programme was required.

Members raised concerns regarding the track record of under spending and that the Authority had to bear in mind that this money was being given to the Authority to spend. Members were also concerned that the potential costs regarding Turntide Jetty were still unknown, and the sooner this could be resolved the better.

It was noted that while a case could be made for all the items on the list, there was particular support from the Committee for new moorings, the retention of two additional Seasonal Rangers, a quay heading for an offloading point, and the acquisition of a new launch for Breydon Water.

## **5/10 Breydon Water Transfer Update**

Members received a report which set out the current position and key issues with regard to the transfer of responsibility for navigation in Breydon Water and the Lower Bure. The report also considered the management implications and set out the immediate maintenance activity which was to be carried out this summer.

Members noted the legal position that as from 1 June 2012 waterskiing was no longer permitted on Breydon Water and that the Solicitor had advised that the Authority should publicise that it is now an offence to ski on Breydon Water. This had come as a surprise to members and as an unexpected consequence of their recommendation that an early date be set for the legal transfer. The Authority had a policy of working closely with British Waterski and the Eastern River Ski Club and had signed a legal agreement governing the arrangements for the implementation of the 2009 Act.

Members noted that the issue of water skiing had not been considered in the advice provided before the decision was taken to proceed with the takeover of Breydon and the Lower Bure on 1 June. They felt that there had been an expectation that any measures to be implemented as a result of the takeover would involve transitional arrangements to mitigate their impacts and to allow users to adapt to those changes in an organised fashion. Officers stated that, because of the mechanisms used to control waterskiing and similar activities on the Broads, once Breydon became part of the Navigation Area, waterskiing automatically became illegal there until such time as it might be designated a ski zone.

Another issue was how to enforce the new legislation. Waterskiing had been identified as one of the most dangerous activities on the Broads, and the Broads Authority, as Duty Holder under the Port Marine Safety Code, was required to risk assess all the activities on the Broads. Reviewing a site based risk assessment for waterskiing on Breydon would be a key part of the Waterski Review Panel's work. The complete formal process would

necessarily take some time for safety review, consultation with those affected, advice from committees and panels and a decision by the Authority and might not be completed until early in 2013.

An important factor was that there were two alternative sites in the Lower Yare and Waveney, relatively close to Breydon Water, to which the very small number of skiers using the area could be redirected.

It was noted that members also enquired regarding the use of an inflatable craft called a 'Ringo' on Breydon Water. Members were informed that the towing of a 'Ringo' was not a specific offence and that any dangerous use/lack of care and caution could be dealt with under existing bylaws or rules introduced by special direction if deemed necessary.

The Chairman read out an extract of an email from Mr Bell. Mr Bell was concerned that the water-skiers were being over regulated compared to other user groups.

Members enquired about a possible compromise, suggesting that some sort of temporary or trial zone be allowed for the 2012 season which was now already upon us, or that discretion be used in pursuing those who were working towards compliance with existing rules and practice. Providing that users were compliant with the recommendations and standards, it was suggested that it ought to be possible for water-skiers to continue to use Breydon Water. Members were concerned that the controversy regarding the timing of the handover put the Authority at serious risk of unprecedented criticism and potential claims.

The Authority's Chairman responded that there was a serious problem with picking and choosing which bits of the Act the Authority wanted to implement. He explained that there was a legal process within the Act which had to be adhered to, which had been developed following a long period of consultation with all relevant interests.

Officers did not agree with some members' assertion that a legal error had been made, and pointed out that a substantial amount of work had gone into the consultation process. The regulation of water skiing would require a review of the activity in Breydon Water to designate an area for water skiing which, if agreed, would then require skiers to sign up to the permit regime and comply with all the safety standards. They advised that it would not therefore be appropriate to rush into allowing waterskiing on Breydon Water at this time without engaging in the due processes.

Members argued that there was no evidence that Breydon was unsuitable for this use and reiterated their concerns that the Authority would face enormous problems if it banned waterskiing. Officers pointed out that the posts marking the channel posed a significant potential hazard which would need to be properly assessed.

Members enquired about the process to designate a water ski zone on Breydon. The Head of Safety Management explained that the first stage would be to undertake a formal risk assessment. The findings of this would then be referred to the Water Ski Panel for consideration, whose recommendations would be considered by the Broads Forum and the Navigation Committee before the Authority took a final decision. It was also necessary to consult a range of other stakeholders, including Natural England, the RSPB and the Environment Agency. It was noted that even if the process was 'fast tracked', it would not be possible to complete the evaluation and reach a decision before the end of the year, because of the number of steps involved and the need to consult with interested parties.

Members recommended that all measures be taken within the Authority's powers to mitigate the effects of this decision on users of Breydon by considering the designation an early date, that a meeting be held with the relevant stakeholders and that the process be 'fast tracked' to arrive at a solution as soon as possible.

Members queried whether the Authority had left itself open to challenge regarding the implementation of the Act and through outlawing an activity without consultation. The Authority's Solicitor confirmed that the Authority had carried out all the consultation required under the 2009 Act and it was, in his opinion, not open to legal challenge on this matter. The Act was a public document and had itself been subject to substantial consultation. He provided advice about the Authority's position in the event of a claim for maladministration on this issue.

The Committee also supported the proposal that officers proceed with the site specific risk assessment of waterskiing on Breydon Water and urgently consider its designation and that the Authority would also work closely with any skiers known to be directly affected so that they had a full understanding of the Authority's position and the action it was taking.

In summing up the debate, the Chairman acknowledged the strength of Members' views on this topic but recognised that the Authority was constrained by the legal framework within which it operated. As the Authority's formal member on the Waterskiing Panel, he too was unaware, just like other members, of this unexpected consequence of an early date for transfer and would continue to pursue it with colleagues and affected parties.

Members were also asked to comment on the designation of a jet ski passage area in the Lower Bure and the cost of an appropriate passage toll and the question of charging tolls from 1 June for vessels that have already paid a port toll for 12 months from 1 January 2012. It was noted that this matter would be progressed by officers.

## **5/11 Broadland Flood Alleviation Project**

### **(1) General Update**

Members received a report which provided an update on the Broadland Flood Alleviation Project, including the works scheduled and works at the design, pre-application stage and construction phase.

### **(2) Consultation for Compartment 19: Claxton Marshes**

Members received a report which provided members with a summary of BESL's consultation proposals for Compartment 19 (Claxton Marshes) on the true right bank of the River Yare between the Carleton Beck near the Beauchamp Arms public house and Langley Dyke. The report also outlined officers' response to the consultation.

## **5/12 Construction and Maintenance 2012/13 Work Programme Progress Report**

Members received a report which set out the progress made in the delivery of the 2012/13 Construction and Maintenance Work Programme to date and updated the Committee on any changes to the programme.

It was noted that the island spit restoration at Salhouse Broad had received planning permission.

Officers reported that the River Chet was in desperate need of dredging, but that a full width dredge of the river could not be done until BESL had carried out its works. Officers reported that they were planning to dredge the middle third of the channel removing a small amount of material as an interim measure.

Members noted that nine quotes had been sought for the development of a new workshop at the Dockyard. Unfortunately five of these companies had withdrawn from the tender process, citing difficulties with the access, piling, cost and lack of experience as the major factors for their withdrawal. The four remaining tenders had been received with a range of prices, all of them higher than the budget plus 10%. Officers would investigate these further and report back at a future meeting.

## **5/13 Chief Executive's Report**

Members received a report which summarised the current position in respect of a number of important projects and events, including decisions taken during the recent cycle of committee meetings.

**5/14 Current Issues**

No current issues were raised.

**5/15 To note the date of the next meeting**

The next meeting would be held on Thursday 6 September 2012 at Dragonfly House, 2 Gilders Way, Norwich commencing at 2.00pm.

**5/16 Exclusion of the Public**

RESOLVED

That the public be excluded from the meeting under section 100A of the Local Government Act 1972 for consideration of the following items on the grounds that they involved the likely disclosure of exempt information as defined by Paragraph 3 of Part 1 of Schedule 12A to the Act as amended, and that the public interest in maintaining the exemption outweighed the public benefit in disclosing the information.

**5/17 To receive and confirm the exempt minutes of the meeting held on 19 April 2012**

The exempt minutes of the meeting held on 19 April 2011 were approved as a correct record and signed by the Chairman

The meeting concluded at 16.50

Chairman

## Code of Conduct for Members

### Declaration of Interests

Committee: Navigation Committee

Date: 7 June 2012

<b>Name Please Print</b>	<b>Agenda/ Mins No(s)</b>	<b>Nature of Interest (Please describe the nature of the interest)</b>	<b>Please tick here if the interest is a Prejudicial interest ✓</b>
A S Mallett	All items	Toll payer, Appointed Broadland District Council Member BA Planning Committee, Vice Commodore Norwich Frostbite Sailing Club, NSBA	✓
A Goodchild	8 – 17	Toll payer, ABA, ME Chairman, BMF Committee Dredge Contractor	
D A Broad	8, 10/11 – 15,17	Toll payer, Great Yarmouth Port Consultative Committee,	
P E Ollier	8/12 – 14/17	NSBA committee member, toll payer, member of BA Planning Committee, member of Broads sailing clubs	
P Dixon	8 – 17	Toll Payer, Sailing Club, RYA, SEV	
M Heron	8 – 17	Toll Payer, Chair Whitlingham Boathouses, Member Norwich RC, British Rowing, NSBA, NBYC, RCC, Landowner	
J Knight	8 – 17	Toll payer, Boat Hirer and Operator	