

## **Broads Authority**

Minutes of the meeting held on 18 January 2013

### **Present**

Dr J S Johnson – in the Chair

Mr M Barnard	Sir Peter Dixon	Mr G McGregor
Mr L Baugh	Mr P Frost	Mr P E Ollier
Mr D A Broad	Mr P Durrant	Mr P Rice
Prof J A Burgess	Dr J M Gray	Mr J Sharpe
Mr N Dixon	Mr A S Mallett	Ms R Varma

### **In Attendance:**

Dr J Packman – Chief Executive  
Mr T Adam – Head of Finance  
Mrs S A Beckett – Administrative Officer  
Mr S Birtles – Head of Safety Management  
Mr C Brown – for the Solicitor  
Mr A Clarke – Senior Waterways and Recreation Officer  
Ms H Franzen – Press Officer  
Mr R G Holman – Director of Change Management and Resources  
Mr S Hooton – Head of Strategy and Projects  
Mr T Hunter – Rivers Engineer  
Ms A Kelly – Senior Ecologist  
Ms J Lawrence – Communications Manager  
Ms A Leeper- Asset Officer  
Mr J W Organ – Head of Governance and Executive Assistant  
Ms T Wakelin – Director of Operations

### **Also in attendance:**

Mr A Roy – Independent Person  
Mr C Bielby – Natural England (for Agenda Item 15)

### **4/1 Apologies and Welcome**

The Chairman welcomed everyone to the first full Authority meeting in Yare House.

Apologies for absence were received from Miss S Blane, Mrs J Brociek-Coulton, Mr C Gould, Mr M T Jeal and Mr R Stevens.

The Chairman welcomed Mr A Roy, the second newly appointed Independent Person for the Authority.

#### **4/2 Chairman's Announcements**

- (1) **Members Working Group to Review Consultative Arrangements –**  
The next meeting of the group would be held on **Thursday 31 January 2013 at 2.30pm**.
- (2) **Members Workshop on Conservation Issues with particular reference to Broads Biodiversity and Water Strategy**

Members welcomed the proposal for a workshop. A suitable date would be arranged through doodle poll. The agenda for the Broads Biodiversity Forum to be held on 5 February 2013 was tabled for information. Any member not already included who would like to attend, was asked to contact Pauline Simpson.

- (3) **Equality Act 2010 and the Role of Members**

In view of the forecast of more heavy snow falls, the Chairman announced that the presentation at Agenda Item 13 on the Equality Act 2010 would be deferred to another occasion. The matters for information relating to Agenda Items 17 – 21 would be taken as read unless there was any new information to present or members had any questions they wished to raise.

#### **4/3 Introduction of Members and Declarations of Interest**

Members introduced themselves and expressed declarations of interest as set out in Appendix 1 to these minutes.

#### **4/4 Items of Urgent Business**

There were no items of urgent business.

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

Two questions had been received from Mrs M Howes relating to the level of navigation tolls to be imposed for 2013/14 and the allocation of overheads between Navigation income and National Park Grant. These were read out and the Chairman provided the Authority's response as set out in Appendix 2 to these minutes. Mrs Howes commented that she was pleased that smaller craft would be required to pay less than in 2011/12 as this would encourage more people, particularly youngsters to take up boating. However, she was still concerned that the proposed overall increase would be too high and she supported the Navigation Committee's views. With regard to the impact of potential government cuts, it was noted these would be dealt with by the Authority at the appropriate time, following consultation with the Navigation Committee and Financial Scrutiny and Audit Committee.

#### **4/6 Minutes of Broads Authority Meeting held on 23 November 2012**

The minutes of the meeting held on 23 November 2012 were approved as a correct record and signed by the Chairman.

#### **4/7 Summary of Progress/Actions Taken Following Decisions of Previous Meetings**

The Authority received and noted a schedule of progress/actions taken following decisions of previous meetings.

In addition, members noted the updates concerning:

- **Transfer of Responsibilities for Breydon Water and the Lower Bure**

The hydraulic/sediment modelling of Breydon Water had been delayed. The vessel to patrol Breydon Water was in the process of being completed and was expected to be operating by the end of April/beginning of May.

- **Local Development Framework: Broads Site Specifics DPD**

It was noted that the period for consultation closed on 13 December 2012. As no significant issues were raised as a consequence, the Authority was now proceeding towards formal submission to the Secretary of State by 28 February 2013 in accordance with the Authority's decision. Members noted that John Clements, the Planning Policy Officer, had left the Authority in early January to take up another post. Recruitment for a replacement was well underway as a matter of urgency due to the public examination being expected in April/May although this would be confirmed on submission.

- **Growth and Infrastructure Bill**

The Chairman reported that a group representing the national park authorities had appeared before the Government Select Committee specifically to respond to Clauses 6 (Housing Development) and 8 (Telecommunications). The Secretary of State appeared to accept the arguments in relation to Clause 6. However, it was understood that the Minister for CLG was not minded to accept those in relation to Clause 8. The Bill would be proceeding to the House of Lords and efforts would be made in association with the national park authorities to seek means of making suitable amendments to the Bill at this stage.

#### **4/8 Minutes Received**

(1) **Planning Committee: 9 November and 7 December 2012**

RESOLVED

that the minutes of the Planning Committee meetings held on 9 November and 7 December 2012 be received.

Attention was drawn to the recommendation from the Planning Committee of 7 December 2012 concerning **Minute 6/12 Strumpshaw Neighbourhood Plan**.

In view of the fact that such matters were likely to be arise more frequently, it was considered that consideration and confirmation of neighbourhood area plans should be delegated to the Planning Committee.

A member reported that Suffolk County Council was due to consider proposals for nuclear power station at Sizewell C. From initial examinations there were concerns about inadequacies relating to transport among other issues. He requested that the Planning Committee consider implications of the potential proposals and provide representations re holding comments if required.

A member requested further information and update on the wider implications of the decision by the Secretary of State to allow the Appeal against refusal concerning the holiday cottages at Wayford Bridge. It was noted that since the decision, the wording of conditions for holiday accommodation had been amended in order to take account of the decision.

#### RESOLVED

- (i) that the whole of Strumpshaw Parish insofar as it lies within the Broads area be designated as a “neighbourhood area” to facilitate the Parish Council’s ambitions in preparing a Neighbourhood Plan;
- (ii) that the consideration and confirmation of Neighbourhood Area Plans and designation of the “neighbourhood areas” to facilitate parish councils’ ambitions in preparing a Neighbourhood Plan be delegated to the Planning Committee; and
- (iii) that the Planning Committee considers the initial proposals for Sizewell C and potential implications for the Broads Area.

#### (2) **Broads Forum: 22 November 2012**

The Chairman referred to relevant matters raised at the Broads Forum meeting on 22 November 2012 and confirmed that these, particularly relating to the review of consultative procedures, had been taken into account when considering the items on this agenda.

He drew attention to the Forum’s comments on the National Grid link from the North Sea to Norwich (Minute 5/2(3)). It was noted that a meeting would be held on 4 February with the National Grid and that

the Suffolk MP, Tim Yeo, was setting up meetings to raise awareness at the highest level.

It was important to consider the benefits of renewable energy and the environment in the round.

RESOLVED

that the minutes of the Broads Forum meeting on 22 November 2012 be received.

(3) **Financial Scrutiny and Audit Committee: 4 December 2012**

It was noted that there would be a significant reduction in the resources available to the Authority in the future. The new Budget Management Procedure was confirmed as involving budget holders in its yearly formulation and would help to enable stricter project management of budget. Although there was a number of unspent balances showing in the accounts as at the end of November, it was considered more prudent to have an underspend than an overspend.

RESOLVED

that the minutes of the Financial Scrutiny and Audit Committee meeting held on 4 December 2012 be received.

(4) **Broads Local Access Forum: 5 December 2012**

The Chairman and Vice-Chairman of BLAF had been re-elected and since attended the East of England Access Forum meeting and it was noted that some of the main challenges facing all forums related to the ending of the Stewardship Schemes, which provided support for permissive footpaths.

**Minute 3/8 (3) of Broads Authority (BLAF minute 1/9) Ludham Bridge Footpath link to St Benets Abbey**

It was noted that the formal agreement with the landowner had not yet been signed although it had been agreed in principle. Members of the Committee were optimistic of a favourable outcome.

RESOLVED

that the minutes of the Broads Local Access Forum meeting held on 5 December 2012 be received.

(5) **Navigation Committee: 13 December 2012**

RESOLVED

that the minutes of the Navigation Committee meeting held on 13 December be received.

Matters raised at the 13 December meeting would be considered when dealing with the reports on the agenda. It was noted that the application referred to the Navigation Committee from the Planning Committee (BA/2012/0294/FUL Compartment 3, Western Bank of River Ant and Northern Bank of River Bure), had been agreed.

**4/9 Whitlingham Country Park: Next Stage of Development**

The Authority received a report setting out progress on the proposals for the development and enhancement of the facilities at Whitlingham Country Park and the proposed next stage, specifically for the development of the education and visitor provision and consideration of how best the Authority could engage with that process. It was noted that, in view of the Authority's significant interest in Whitlingham Country Park, the expectation of the Trust was that the development of these facilities would be a joint project with the Authority. Members noted the importance of the issues to be considered and resolved around any new buildings at Whitlingham.

Members agreed that it was important that the Authority had a major involvement in the project. There were three Broads Authority members on the Whitlingham Charitable Trust, Sholeh Blane, Julie Brociek-Coulton and John Sharpe, and as Trustees their prime responsibility was to the Trust not to the Authority. Members therefore agreed that two further Broads Authority members join a Member Working Group of five members to steer the Authority's input and report back to the Authority as it developed.

RESOLVED

- (i) that a small task and finish member working group be set up to work with the Whitlingham Trustees and officers in developing the ideas for the expansion of the educational and visitor facilities at the site: and
- (ii) that in addition to those Authority members on the Whitlingham Charitable Trust, Louis Baugh and Peter Dixon be appointed to the member working group to steer the Authority's input and report back to the Authority as it develops.

**4/10 Recommendation by the Navigation Committee**

The Authority received a report detailing the Navigation Committee's recommendations from its meeting on 13 December 2012 and in particular its request that the Authority reconsiders its decision taken at the meeting on 23 November 2012 that the overall level of tolls income be increased by 3% from April 2013. Members also received within the report a full and comprehensive

response to the points raised in the Navigation Committee's motion and details of the process and issues raised. It was noted that, under Standing Order 13, the agreement of six members of the Authority was required for the Authority to consider rescinding an earlier decision. However, this Standing Order did not apply to the Authority's Committees which was why the Navigation Committee's recommendation was before members.

Mr Mallett spoke to the recommendation from the Navigation Committee contained in the report explaining that it was unfortunate that the situation had arisen. He was aware of the Authority's constraints but it was important for the Authority to be aware of its relationship with its stakeholders. He reiterated the reasons for the Navigation Committee's recommendation that the overall level of toll increase should be 1.5%, that such an increase would help the commercial sector to thrive and prosper and that such a level would be reasonable to help to meet financial predictions in these economic times. Members of the Committee had recognised that there was a need for adjustments to all sectors and had been aware of a track record of underspending. He commented that the previous reference to tax relief was a theoretical matter, was dependent on profit and could be misleading. He was particularly concerned that the Authority's relationship with its key stakeholders was not allowed to deteriorate.

Mr Mallett proposed, seconded by Mr Ollier, that the Authority reconsiders the decision it had made at its meeting on 23 November 2013.

Members considered (a) whether the Authority had followed the correct procedures and members had received sufficient information as well as whether they had had a full and proper debate at its previous meeting, (b) whether the reasons given to the Navigation Committee for making that decision were comprehensive and adequate and in accordance with the requirements in the Norfolk and Suffolk Broads Act (S9(9)) and (c) the relationship between the Authority and its constituent committees, and the alleged presumption that the Authority had to follow the Navigation Committee's advice.

The Solicitor commented that in his view there had been a full debate at the last meeting and the reasons for not adopting the Navigation Committee's recommendations were clearly set out in the minutes. It was a perfectly legal and proper process for the Chief Executive, in consultation with the Chairman and Vice-Chairman of the Authority, to agree the wording and provide those reasons through the Chief Executive's report.

Members noted that the Authority was required to consider the recommendations of the Navigation Committee and take account of the Agreement with the British Marine Federation (BMF) and Royal Yachting Association (RYA). However, the Solicitor emphasised that there was no presumption or requirement in the Norfolk and Suffolk Broads Act 1988 as amended by the Broads Authority Act 2009, that the Authority was bound to follow that advice. He advised that as a public body it was essential that the Authority had a free hand to examine any recommendations and not be

constrained or fettered by any agreement with third parties. Although it should take serious account of any agreements and those recommendations, it was required to examine the wider issues in accordance with all its duties. Not to do so would be unlawful.

Members unanimously agreed with the general tenor of the Navigation Committee's recommendation (d) from 13 December 2013, that its induction procedures be widened so that all new members were fully apprised of the Norfolk and Suffolk Broads Act 1988 and amendments of the Broads Authority Act 2009 and the status of the agreements with the RYA and BMF as well as the relationship of the Authority with its constituent committees. They considered that the careful guidance given by the Solicitor should be imparted to all new members. They also welcomed the initiative from the Chairman and Vice-Chairman that members be given the opportunity to understand the Broads Hire Boat Federation's position through the provision of an information pack for all members and an invitation from the Federation to visit boatyards to see how those businesses operated in 2013.

Members noted the Navigation Committee's disappointment that the Authority had not accepted its advice on the level of toll charges for 2013/14. The Chairman, supported by members, commented that the Authority greatly valued the advice it received on significant matters affecting the navigation. However some of the sections ((a) and (b)) of this particular motion from the Navigation Committee were considered to be regrettable, divisive and, given the views of the Solicitor, a misinterpretation. The Chairman stated that in his view collective responsibility devolved on Authority members for decisions properly taken by the Authority, and post-decision analysis of who voted for what was unwelcome. It was not considered that there was a link between the "process" of reviewing the structure of tolls for 2013/14, on which the Authority unanimously accepted the recommendations of the Tolls Review Working Group and the Navigation Committee, and the decision on the level of tolls for 2013/14, on which the Tolls Review Working Group was at pains to make no recommendation.

In the subsequent debate a number of members expressed the view that the Authority had had a full, balanced and proper debate at its meeting in November and that proper and due process had been carried out. The meeting had been quorate and full information had been provided. In general members were of the view that to revisit a decision which had received due process and for which there was no new information or justification available to reverse that decision would be a dangerous precedent.

The Chairman of the Navigation Committee apologised if the recommendation from the Navigation Committee appeared disrespectful as this was not the intention. The Navigation Committee was required to be fully consulted and, at its meeting in December, had also received the presentation on the Authority's asset management, which the Authority had received at its meeting in November. He also pointed out that the Financial Strategy, which included the 3%, did so with the proviso that the figure was still subject to the consultation process and for this to be genuine, had to include the possibility



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on these and the relationship between the Authority and all its constituent Committees;

- (ii) that the recommendation of the Navigation Committee, that the Authority reviews its decision to raise overall toll income by 3% with effect from April 2013, be not accepted (by 11 votes to 3 with 2 abstentions);
- (iii) that the reasons for this decision are as follows:
  - decisions taken by the Authority after a full debate are properly taken by members acting with independent judgement, and committed to working in the best interests of the Broads;
  - the motion from the Navigation Committee gave no material justification in the form of further considerations relevant to the issue of the level of tolls as to why the Authority's properly taken decision should not stand;  
Authority members, whichever way they voted at the previous meeting, should accept collective responsibility for the decisions of the Authority (by 14 votes to 0 with 2 abstentions);
- (iv) that there is no need to supplement the feedback provided in the Chief Executive's report, compiled after consultation with the Chairman and Vice-Chairman of the Authority, as the reasons for not adopting the Navigation Committee's recommendations are clearly set out in the formal minute of the Authority's meeting of 23 November 2013 and in the Chief Executive's report (by 13 votes to 0 and 3 abstentions); and
- (v) that, in any future instances when the Authority does not accept the recommendation of the Navigation Committee, the reasons for not doing so would be as set out in full in the minutes of the meeting (by 14 votes to 0 with 2 abstentions).

#### **4/11 Consolidated Budget 2012/13 (Revised) – 2013/14**

The Authority received a report on the proposed consolidated income and expenditure budget for 2013/14. This was based on the Financial Strategy adopted by the Authority at its meeting on 21 September 2012 and the detailed work carried out by the Resource Allocation Working Group. Members noted the number of significant changes approved by the Authority within 2012/13 and the resulting impact on the Authority's forecast outturn for 2013/14 and overall financial position.

Members noted that Defra had notified the Authority that the grant settlement for 2013/14 would be unchanged but that future funding levels were far from certain and the agreed settlement figure for 2014/15 could not be guaranteed. Members noted that the total income for 2013/14 was estimated at £6,498,931 based on that National Park Grant (NPG) and a toll increase of 3%. This represented a reduction of £148,118 from the original 2012/13 budget with NPG income reducing by £224,852 and Navigation income increasing by £76,734. It was noted that, taking account of projected net

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4/13 Equality Act 2010 and the Role of Members

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4/14 Sediment Management Strategy

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4/15 Breydon Water and Water Ski and Wakeboarding Zone Designation:

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4/16 Wakeboard ding Trial Findings and Proposed Zone Variations

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4/17 To consider Items of Business raised by the Designated Person in respect of the Port Marine Safety Code

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4/18 Review of Consultative Arrangements and Community Engagement: Report from Members Working Group

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4/19 Strategic Priorities 2012/13

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4/20 Operations Work Programme: 2012/13 Progress Report

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4/21 Consolidated Income and Expenditure: 1 April 2012 – 30 November 2012

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4/22 Feedback from Lead Members and Those Appointed to Represent the Authority

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4/24 Items of Urgent Business

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4/25 Formal Questions

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4/26 Exclusion of the Public

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Members of the public left the meeting during consideration of the following items

### Summary of Exempt Minutes

4/27 Exempt Minutes of Broads Authority meeting held on 23 November 2012

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4/28 Exempt Minutes of Navigation Committee meeting held on 13 December 2012

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4/29 Dragonfly House Costs

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4/30 Purchase of Moorings

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Declaration of Interests

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Public Questions to the Broads Authority  
Questions submitted by Mrs M Howes with  
Response from Broads Authority

1. By increasing the tolls for larger craft by 6%, which includes Hire Craft, it will be even cheaper for holidaymakers to turn to package holidays abroad. Is it their intention to drive tourists away?

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2. I noted in a budget review that by 2014 the income for navigation will rise to about one half of all the income for the Authority. Will the Authority confirm that it will cut back on overheads in line with government grant cuts and not seek to soften the impact of grant cuts by allocating an increased share of overheads to the navigation account?

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