

December 2010

MALDON HARBOUR IMPROVEMENT
COMMISSIONERS

STANDING ORDERS, TERMS OF
REFERENCE AND DELEGATED
POWERS

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NOTE: For ease of reference, this document contains the following elements although they are not separated into defined sections:-

- *Standing Orders – which govern how meetings of the Commissioners shall be conducted;*
- *Terms of Reference and Delegated Powers – which include how and by whom various decisions are taken outside formal meetings of the Commissioners;*
- *All passages in **bold and italics** are statutory requirements contained in either the Commissioners Clauses Act 1847 or the Maldon Harbour Order 1865;*
- *References in this document to the masculine gender should be taken to include the feminine gender.*

MEETINGS

1 ***The Annual Meeting shall be held in the third week of June in each year*** on a date determined by the Commissioners no later than 31 December in the previous year.

2 The dates of all other meetings, which shall be no less than six, shall be determined by the Commissioners at the meeting immediately prior to the Annual Meeting.

3 ***Agendas for all meetings shall be issued by the Clerk no less than two clear days prior to the date of the meeting.*** Agendas and any supporting papers, reports etc. may be provided in written or electronic form.

4 ***Five or more Commissioners may require a Special Meeting to be convened on written notice to the Clerk. Two clear days notice thereof must be given.***

CHAIRMAN OF MEETINGS

5 The person presiding at a meeting may exercise all the powers and duties of the Chairman in relation to the conduct of the meeting. In the absence of the Chairman at any meeting, the Vice-Chairman, if present, must conduct the meeting.

6 In the absence of both the Chairman and Vice-Chairman, those other Commissioners present (providing there is a quorum) must appoint a Chairman to conduct the meeting.

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7 ***At the Annual Meeting the former Chairman, if he is no longer a Commissioner, may attend to preside over the election of Chairman but for no other matter.***

PROPER OFFICER

8 Where a statute, regulation or order confers functions or duties on the proper officer that proper officer shall be the Clerk in the following cases (unless otherwise stated):-

- a) To receive and retain Declarations of Undertaking;
- b) To receive, record and retain the Declarations of Interest and to maintain a Register of such interests;
- c) To receive and retain all plans and documents.
- d) To sign notices or other documents on behalf of the Commissioners;
- e) To sign summonses to attend meetings of the Commissioners;
- f) To keep proper records for all meetings of the Commissioners

9 In any other case the proper officer shall be the Clerk.

10 Any documents, records etc. over 15 years old may, at the discretion of the Clerk in consultation with the Chairman, be deposited with the Essex Records Office.

QUORUM

11 ***Five Commissioners shall constitute a quorum for meetings of the Commissioners.***

12 If a quorum is not present when the Commissioners meet or if during a meeting the number of Commissioners present falls below the quorum, the business shall not be transacted and must be transacted at the next meeting or on such other day as the Chairman may determine.

VOTING

13 Commissioners shall vote by show of hands or, if at least two Commissioners so request in advance, by secret ballot. ***All matters are decided by majority vote.***

14 If a Commissioner so requests (which must be prior a vote bring taken), the Clerk shall record the names of the Commissioners who voted on any question so as to show how they voted, including those who may abstain.

15 The Chairman of any meeting may give an original vote on any matter put to the vote and, in the case of an equality of votes, may give a casting vote whether or not he gave an original vote.

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16 If the person presiding at the Annual Meeting has ceased to be a Commissioner, he may not give an original vote in an election for Chairman. He, or any other Commissioner presiding, must however give a casting vote whenever there is an equality of votes in an election for Chairman.

ORDER OF BUSINESS

17 At each Annual Meeting the order of business shall be:-

- a) To elect a Chairman for the ensuing year;
- b) To elect a Vice-Chairman for the ensuing year;
- c) To appoint the Treasurer for the ensuing year;
- d) To adopt the Statement of Accounts for the previous year.**

18 At any other meeting the first business shall be the appointment of a Chairman if both the Chairman and Vice-Chairman are absent.

19 After the first business (if any) has been completed, the order of business, unless the Chairman otherwise decides on the grounds of urgency or expediency, shall be as follows:-

- a) Declarations of Personal and Prejudicial Interest;
- b) To receive and confirm the Minutes of the previous meeting;
- c) Matters arising from those Minutes;
- d) Clerk's Report;
- e) Treasurer's Report.

20 Should an application to become a Commissioner be received by the Clerk (and provided all required documentation has been satisfactorily completed and received), an item must be placed on the Agenda for the next meeting immediately prior to item (a) above (Declarations of Personal and Prejudicial Interest).

RULES OF DEBATE

21 No discussion shall take place upon the receipt and confirmation of the Minutes of a previous meeting except upon their accuracy. Corrections to the Minutes shall be made by resolution and must be initialled by the Chairman.

DISORDERLY CONDUCT

22 All Commissioners must behave at meetings in a reasonable manner and must respect the authority of the Chairman of the meeting at all times. Misconduct at a meeting may be construed as persistently disregarding the Chairman, wilfully obstructing business, behaving irregularly, offensively, improperly or in such manner as to bring the Commissioners into contempt or ridicule.

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23 If, in the opinion of the Chairman, a Commissioner has so conducted himself, the Chairman may ask him to leave the meeting and may suspend the meeting, if necessary, to a later time that day or such other date that he shall determine.

RESCISSION OF PREVIOUS RESOLUTION

24 A decision of the Commissioners shall not be rescinded within six months save by a special resolution, the written notice whereof bears the names of at least three Commissioners or by a resolution moved in pursuance of a report or on a recommendation of a working group appointed by the Commissioners.

25 When a special resolution has been disposed of, no similar resolution may be moved within a further six months.

VOTING ON APPOINTMENTS

26 Where more than two persons have been nominated for any position to be filled by the Commissioners (excluding the election or appointment of Chairman, Vice-Chairman or Treasurer) and of the votes given there is not an absolute majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken, and so on until a majority of votes is given in favour of one person.

DISCUSSIONS AND RESOLUTIONS AFFECTING EMPLOYEES OF THE COMMISSIONERS

27 If at a meeting there arises any question relating to the appointment, conduct, dismissal, salary or conditions of service of any person employed by the Commissioners, it shall not be considered by the Commissioners in the presence of that employee.

28 If that employee is the Clerk, he shall vacate the meeting room and the Chairman or other Commissioner shall provide him with a written note of proceedings as soon as practicable after the conclusion of the meeting for inclusion in the Minutes.

ACCOUNTS AND FINANCIAL STATEMENT

29 All matters regarding the accounts and financial matters must have regard to the Financial Regulations as approved from time to time by the Commissioners and may only be amended at a formal meeting of the Commissioners upon a report of the Clerk.

WORKING GROUPS

30 ***The Commissioners may appoint such Working Groups as are necessary to investigate and report on any specific aspect of the work of the Commissioners.***

31 The number of Commissioners on any such Working Group shall normally be three in addition to the Clerk.

32 Every Working Group should in most cases at its first meeting elect a Chairman.

33 The provisions of these Standing Orders on rules of debate etc. shall apply to Working Groups.

INTERESTS

34 If a Commissioner has a personal or prejudicial interest in any matter before the Commissioners, he shall disclose the existence and nature of that interest at the beginning of the meeting, or as soon as that interest becomes apparent.

35 If a Commissioner who has disclosed a personal or prejudicial interest and then considers that interest to be a prejudicial one he must, in most cases, withdraw from the room where the meeting is being held during consideration of the item to which the interest relates. A Commissioner with a prejudicial interest in a matter may first make representations, answer questions or give evidence on that matter and may, at the discretion of the Chairman, be invited to remain in the meeting room as an observer or to add or clarify matters of a factual nature only which, in the opinion of the Chairman, may assist the Meeting.

INSPECTION OF DOCUMENTS

36 A Commissioner may, for the purpose of his duty as such (but not otherwise), inspect any document in the possession of the Commissioners and held by the Clerk and if copies are available shall, on request, be supplied for the like purpose with a copy.

37 All Minutes kept by the Commissioners shall be open for inspection; copies shall be available on request and deposited at the Maldon Library (together with a list of the Commissioners).

ADMISSION OF THE PUBLIC AND PRESS TO MEETINGS

38 There shall be a presumption that the public and press shall be admitted to all meetings of the Commissioners. However the public and press may be excluded by means of the following resolution, viz. "That in view of the confidential nature of the business about to be transacted, it is in the

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opinion of the Commissioners and in the public interest that the public and press be temporarily excluded and they are instructed to withdraw".

39 If any member of the public or press interrupts the proceedings at any meeting, the Chairman may, after warning, order that he be removed from the meeting.

CONFIDENTIAL BUSINESS

40 No Commissioner shall disclose to any person not a Commissioner any business so declared to be confidential by the Commissioners.

PLANNING APPLICATIONS AND OTHER FORMAL CONSULTATION

41 Every planning application or other relevant document or matter referred to or otherwise brought to the attention of the Commissioners for consultation, will in the first instance be examined by the Clerk. If appropriate, and if time permits, the document or matter shall be referred to the next meeting of the Commissioners and such comments or observations as may be agreed shall be submitted.

42 If necessary, if time permits, and at the discretion of the Chairman, a special meeting may be called for the purpose only of dealing with the matter providing always that the timescale for consultation given by the consulting body can be met.

43 If the timescale for submitting a response does not allow such a meeting to take place, the Clerk shall arrange for observations to be submitted following such informal consultation with all Commissioners as can reasonably be undertaken, whether by letter, email, telephone or other means.

44 Full details of each planning application or other matter shall be recorded in the Minutes of the meeting at which discussion thereon takes place or at which confirmation of action having been taken since the last meeting is sought.

45 With regard to any response to matters brought before the Commissioners for consultation, the submission of objections, approval, comments or other observations must be restricted to matters that fall solely within the jurisdiction of the Commissioners, i.e.

- a) Safe navigation of the fairway;
- b) Encroachment into the fairway;
- c) The limitation or loss of any existing riverside facilities or proposed inappropriate riverside uses to the detriment of the harbour;
- d) The loss, damage to or deterioration of any existing wharf facilities or frontage or any development that may sterilise future wharf development;

- e) Development that may damage the riverside environment or the conservation of riverside facilities;
- f) In its widest sense, any policy development proposals that may affect the harbour and the statutory functions of the Commissioners.

VARIATION, REVOCATION AND SUSPENSION OF STANDING ORDERS

46 Any or every part of these Standing Orders may be suspended by resolution in relation to any specific item of business, provided that such resolution shall only be deemed to have been carried if it receives the consent of not less than two-thirds of the Commissioners present and voting at the meeting at which the motion was considered.

47 A motion permanently to add, vary, or revoke a Standing Order shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Commissioners. Such a motion shall not be approved save with the consent of not less than two-thirds of the Commissioners present and voting at the next ordinary meeting when such motion is considered.

48 In addition to the above, a proposal to add to, delete or vary existing Standing Order(s) may be considered on a written report of the Clerk.

STANDING ORDERS TO BE GIVEN TO COMMISSIONERS

49 A copy of these Standing Orders shall be given to all Commissioners by the Clerk and, in the case of any new Commissioner, as soon as practical upon the completion of the Declaration of Undertaking, i.e. its signing by the Commissioner and the Chairman or Clerk.

DELEGATED POWERS

50 Save for those Delegated Powers stated above (e.g. the Proper Officer provisions) or included in the Commissioners' Financial Regulations, the following duties are delegated to the Clerk to discharge. Any decisions or actions that taken in consultation with the Chairman, Vice-Chairman or Treasurer outside meetings of the Commissioners shall be reported to the next available meeting (not including day to day administrative matters).

- a) The preparation and publication of Agendas;
- b) Preparation and publication of the Minutes;
- c) Implementation of decisions resulting from meetings of the Commissioners unless otherwise decided;
- d) Sending the adopted Accounts for each year to the Department for Transport;
- e) Issuing Passenger Return Forms to known passenger vessels at the end of each season, i.e. by 31 October;
- f) Maintaining the PANAR records (Ports Aids to Navigation Availability Reporting).