

Maldon Harbour Improvement Commissioners

Minutes of the Ordinary Meeting of the Commissioners held on Tuesday, 29 November 2022 at 7.00 pm.

PRESENT: G Courtney (Chairperson) D Patient (Vice Chairperson)
 M Gibson (Treasurer) N Cardy
 John Dines C Swann

32 APOLOGIES FOR ABSENCE

Apologies for absence were received from P Ellum and M Chapman.

33 DECLARATIONS OF PERSONAL AND PREJUDICIAL INTEREST

There were none, other than those declared during the meeting.

34 MINUTES – MEETING 11 October 2022

The Minutes of the Ordinary Meeting held on 11 October 2022 were formally received. It was **AGREED** that the Minutes of the Ordinary Meeting held on 11 October 2022 be confirmed as a correct record.

35 MATTERS ARISING

Minute 24 Item 2

G Courtney clarified that the Letter of Compliance was now understood, it must be submitted by September 2023.

Minute 26 Item b) iii) Last sentence

There was an inaccuracy in that, boatyards cannot appeal to the Secretary of State if they do not feel the Harbour Dues are a fair charge; this can only be done by boat owners who pay Harbour Dues.

Minute 28

Dredging - details were to be obtained from N Cardy.

N Cardy raised concern about the recovery of debt from Topsail Charters. G Courtney confirmed that discussion on this would follow the setting of Harbour Dues and reiterated that the debt, interest on it and any legal fees incurred could be recovered and there was a 6-year period to chase debts.

36 CLERK'S REPORT

G Courtney had received a written report and commented on the web hosting costs shown therein.

Item 1. Trinity House PANAR database had been updated with No 10 buoy light outage: - extinguished 1800 Monday, 7 November 2022 and restored 1330, Thursday 10 November 2022.

Item 2. HostPapa Web Hosting (3-yearly) had been renewed through to 21 November 2025 at £345.17 inc VAT. G Courtney commented on the web high hosting costs shown.

Item 3. MMO Marine Plan Training/Refresher Sessions email. This had been circulated to all Commissioners. Shaun Young had been asked to pass it to appropriate MDC Officers in the absence of the appointment of a new departmental head for Countryside and Leisure (inc flooding). G Courtney attended this on Zoom, it was poor in all respects,

Item 4. Harbour Dues Passenger Returns would be sent out in late December 2022.

Item 5. Siltation Committee – recommencement. The Clerk would make the appropriate contact (N Cardy to provide) on her return in December 2022.

37 TREASURER'S REPORT

M Gibson reported that the current bank balance is £10,346.31 and that there had been no significant expenditure. He confirmed that Barclays had accepted the two new signatories.

G Courtney reported that MHIC had been informed that in future, the hire of the room at Maldon Little Ship Club would cost £25 per meeting due to the increase in heating/running costs.

38 HARBOUR MAINTENANCE AND STATE OF BUOYS

a) Buoy Report

G Courtney reported that No 10 light had failed. A sub-contractor had replaced it at a cost of £65.

b) Maintenance sub-committee.

G Courtney suggested that a sub-committee should be formed to plan a maintenance programme. The members of this would be N Cardy, G Courtney and John Dines. The first meeting to take place on Tuesday, 6 December 2022 at 12 noon in N Cardy's yard (to be confirmed).

39 HARBOUR DUES FOR 2023

a) Legal Advice

G Courtney reported on a telephone conversation with Gus Lewis of Dorade Law (D Patient had listened to the call and made notes).

- Gus Lewis felt that a Statutory Harbour Powers Review would be good to clarify our current position but to watch for the cost – estimated a new Harbour Order would cost £10,000 plus legal costs and estimated a total cost of £30,000.
- MHIC have full powers to levy Harbour Dues now and Department of Transport expect it of MHIC. However, this can be levied on boats only, not berths and if Harbour Dues were to be collected by boatyards then co-operation would be required.
- Harbour Dues can be set at any level but must be seen to be reasonable, ie in line with the cost of managing the harbour. Any objections to the Harbour Dues must be made first to the Harbour Authority then to the Secretary of State.
- In recovering the Harbour Dues owed, MHIC have the right to physically restrain the boat/s which have not paid. Recovery through law could be done through the County Court, the Small Claims Court or Money Claims Online. The latter option probably being the cheapest.

G Courtney's letter to Lara Moore, Ashford's, following the last MHIC meeting, as follows:-

Following our full Commissioners' meeting on Monday evening, the general principle of spending a substantial amount of money on a Statutory Harbour Power Review was supported.

However, the Commissioners would like to know more about the scope of the review. For example, would it allow us to answer these questions?

Question 1. Would it be within our powers to:

- a) Levy Harbour Dues on berth/mooring owners, based on the number of berths/moorings/boats in the port managed by them?
- b) Levy Harbour Dues on clubs and similar organisations using the port, based on the number of their members. If not, whether it is necessary to base the charge on the number of boats at the club.
- c) In connection with the two above questions, whether boats ashore can be included in the calculation.
- d) Levy on marine businesses situated within 100 metres (or any lesser distance) of the river frontage.
- e) Levy a charge on parties holding events such as triathlons and swimming races in the port.

Question 2. Would it enable MHIC to see the steps to be taken to recover the Harbour Dues debt?

Question 3. Would it allow us to compare our powers to give directions and any advantages/disadvantages compared to byelaws?

Lara Moore of Ashford's reply was reviewed.

P Ellum had looked at the legal advice and sent his thoughts about it for consideration as he could not be present at this meeting, as follows. His comments were reviewed and discussed.

Cost

Lara Moore of Ashfords LLP has confirmation that the fee estimate for the written SHP Review itself is £1,500 plus VAT.

A meeting to then discuss specific points would be charged on a time spent basis (£330 per hr).

D Patient raised concerns re making certain that the right questions were asked at this stage.

P Ellum has requested he be fully involved in the post SHP questions session.

It was RECOMMENDED that:

- Lara Moore at Ashfords LLP is instructed to draw up a Statutory Harbour Powers Review at the cost of £1,500 plus VAT.
- One session post review (at £330 per hr) for specific questions to take place.

b) Structure and level of Harbour Dues for leisure craft

G Courtney distributed a financial breakdown of Expenditure and Income Estimates for 2023/24 and projected levels of income.

i) This showed that a minimum income of £6,899 and a maximum of £10,149 per annum would be required assuming no further equipment costs were incurred.

ii) During 2018/20 (pre-Covid years) the average commercial income had been £5,500 and this left a minimum deficit of £1,399 and a maximum of £4,649 which would need to be recouped from non-commercial craft.

iii) Projected levels of income which could be generated by levying non-commercial boat Harbour Dues based on the length of the boat were examined. 8p per ft/mth and 10p per ft/mth were detailed on a monthly and annual basis. This was then summarised as projected annual income for 100, 150 and 200 boats.

A general discussion then followed when various points were raised:-

- John Dines suggested that it should be levied on non-commercial boats that were actually in the water.
- N Cardy queried charging dinghies.
- John Dines felt that a dinghy that is being used as tender should be exempt.
- M Gibson and John Dines raised the issue of ownership of primary and secondary boats.
- C Swann raised the issue of collecting Dues and policing in the absence of a Harbour Master.

- M Gibson felt that quoting an annual, rather than a monthly, rate would be a better policy as some boat owners might feel they should only pay for the months their boat is in the water.
- D Patient raised a query re houseboats, particularly those in Heybridge Creek.
- John Dines felt that all boat owners should pay and the process should be kept simple.
- M Gibson commented that the financial breakdown was very clear .
- C Swann said Blackwater Sailing Club had offered to contribute even though they are technically outside the Harbour area.
- It was suggested that parity with Maldon Yacht Club would be the fairest.
- Harbour Dues for commercial vessels have not been raised for 20 years.

It was RECOMMENDED that Harbour Dues should be levied on non-commercial craft annually, the fee being based on a figure of 10p /ft/month.

At the next meeting the following issues would be discussed:

- Clarification of exactly which boats, ie dinghies etc.
- The issue of houseboats.
- Blackwater Sailing Club and Maldon Yacht Club.
- Asking clubs for contributions

40 DREDGING

Alan Hoy, the Vice Commodore from Blackwater Sailing Club had requested assistance with dredging and this was passed on to N Cardy, who would assist in giving BSC the information they need about permissions etc.

N Cardy reported on the current dredging progress. 12 loads had been done so far. He suggested the temporary removal and then re-siting of Buoy 16 and would report the new position to the Clerk. He also suggested removing 5 loads from the 'bight', these are the remaining loads from the 2022 dredging schedule. This was agreed. (subject to verification).

41 TRIATHLON 2023

D Patient displayed two satellite photos with suggested routes for the 2023 Triathlon which had been received from Shaun Young at MDC. It was agreed that their suggested Route 1 was too close to the fairway and that Route 2 was acceptable, providing it was well buoyed, that their boats were in attendance and the participants were fully aware of the risks involved. This needed to be included in their risk assessment. D Patient had communicated this to Shaun Young. N Cardy suggested a MHIC boat should be in attendance too to ensure compliance.

42 PORT MARINE SAFETY CODE

G Courtney, I Hiner (former Commissioner) and M Chapman have updated this and a full report will be provided at the next meeting.

43 URGENT ITEMS OF BUSINESS

Item a) Mooring application - A mooring application had been received by MDC. G Courtney recommended that Commissioners N Cardy and John Dines be delegated to fix the position. N Cardy to contact Nigel Harmer.

Item b) Notice to Mariners Fireworks Display Risk Assessment - G Courtney had spoken to Shaun Young at MDC having looked at the RA for this event. Concern was expressed that the fall out area from the fireworks showed most of the river opposite the park. She queried their action if a vessel was hit?

44 DATE AND TIME OF NEXT MEETING

This would be Tuesday, 17 January 2023 at 7 pm.

The Chairperson closed the meeting at 9.30 pm

Chairperson