



## 97 CLERK'S REPORT

Item 1. Harbour Dues Notice and Commercial Operators' Options Form. The Harbour Dues Notice had been sent out to Commercial Operators and the MHIC Contacts List. It had also been published on the MHIC website. The Commercial Operators' Options Form had been sent out to Commercial Operators, together with a letter from MHIC explaining the new Harbour Dues Structure.

Item 2. Trinity House Buoy Inspection. This would take place on 21 June 2023. Trinity House did not require a representative of MHIC to meet the Inspector. They would require a telephone number for contact should it be necessary. Jim Dines said his phone number could be used as the contact for Trinity House.

Item 3. Appointment of new Maldon District Councillor Harbour Commissioner. Charlotte Elderton at MDC had informed that this would be done after the MDC meeting on 8 June 2023.

Item 4. Update from MDC. N Harmer commented that there was a forthcoming inspection by Trinity House (see Item 2 above), with nothing further to report.

## 98 TREASURER'S REPORT

M Gibson reported that the Accounts were with the Examiner and were due for collection on 17 June 2023.

## 99 TO CONSIDER THE RE-APPOINTMENT OF DAVID PATIENT WHOSE PERIOD OF APPOINTMENT ENDS ON 4 JULY 2023

On being duly proposed and seconded it was **AGREED** that David Patient be re-appointed as Commissioner.

## 100 HARBOUR DUES FOR 2023

a) Commercial vessels – passengers

A letter had been sent out to Commercial Operators on 30 May 2023 explaining the updated Harbour Dues structure, with the option of being charged on tonnage or passenger numbers.

b) Commercial vessels – cargo

Jim Dines stated that this was a complicated issue. He referred P Ellum's email of 2 June 2023 which relayed court decisions/precedents. Jim Dines queried if pontoons would be included. The need for careful definitions was clear.

D Patient referred to a previous comment by N Cardy that a vessel would not be charged if it stayed within the Harbour. The need for a clear definition of "in and out" was identified. Jim Dines noted that at Harwich there was no charge if the vessel did not leave the harbour. P Ellum would check the legal implications of operating *within* the Harbour.

Comissioners asked that the information in P Ellum's email (2 June 2023) be included in the Minutes:-

“ . . . it may therefore help to confirm the legal advice received:

#### *Used in navigation*

Vessels must be “used in navigation” to pay harbour dues but this has been determined to include vessels which were previously used in navigation but are not currently; it is a relevant consideration that it has its own means of propulsion, but this is not essential; a craft which is capable of transporting persons or property from one place to another is used in navigation even if it is incapable of independent movement unless towed by another vessel; a vessel which is currently rendered incapable of navigation continues to fall within the definition if it could regain its capacity to navigate; vessels used in navigation (interpreted on the above broad basis) which are used as houseboats fall within the scope of harbour dues (R -v- Carrick DC ExP Prankerd 1998).

#### *Size*

The judgment in the jet ski case (R -v- Goodwin 2005) was annoyingly wide in its wording and, in addition to taking jet skis out of scope, implies that any small (but leaving size undefined) boat falls outside the definition of a vessel used in navigation.

[NB: The advice was that all vessels of whatever size could be brought into scope with a Harbour Revision Order.]

So, I assume our check list for what needs to be decided is:

1. Minimum size
2. Houseboats
3. Commercial vessels not paying commercial dues during the annual period.”

## **101 NON-COMMERCIAL HARBOUR DUES**

P Ellum raised the issue of a commercial vessel just moored or operating within the Harbour paying the same as houseboats/leisure craft. John Dines suggested Harbour Users, ie those who benefitted from the Harbour should be included. D Patient reviewed size of craft, whether they were on hardstanding. Jim Dines stated that decisions would need to be made on charging criteria including size; whether it was an open boat; whether the boat was out of the water.

John Dines asked how Dues would be collected. Jim Dines commented that it would be difficult to adjudicate. John Dines noted that he paid an annual licence on the Ouse. D Patient had visited East West Moorings and reported there was resistance regarding houseboats paying, but those who also had separate leisure craft would pay Harbour Dues. Registered houseboats pay Council Tax. John Dines reiterated the need for simplicity. Jim Dines supported a simple fixed amount otherwise the charging would be untenable. P Ellum mentioned that Maldon District Council would pay (was willing to collect dues from its mooring users). Jim Dines advocated a flat rate per berth regardless of size. £20 per berth was suggested.

There was discussion regarding acceptability of charges.

P Ellum pointed out that MHIC can only charge Harbour Dues on vessels eg using criteria such as length, houseboat etc. Harbour Dues cannot be charged on berths. MHIC can set parameters of vessels.

N Harrison suggested a meeting of all yard owners. P Ellum stated that the way was for payment to come via yards, but what had not been identified were size of boat and the inclusion of houseboats. Jim Dines asserted that the only parameter should be a berth, excluding any other criteria. P Ellum re-stated that charges could not be per berth. MHIC could only charge per boat. Jim Dines suggested that a possible definition would be a boat = a berth.

An initial list of names of yards was identified with a view to arranging a meeting.

N Harrison revisited the need to define a berth and questioned if a byelaw would be needed. John Dines suggested that there should be a meeting to discuss this.

#### ADDENDUM POST MEETING

P Ellum has pointed out that what he was saying at the 2/6 meeting may not be clear from the Minute:

MHIC can only charge Harbour Dues on vessels. Accordingly, even though it was intended to collect via the yards (which could be a charge per berth, if agreed) it was necessary to set the charge as a per boat charge. It did not matter that the yard collection scheme probably meant not every boat paid £20 (because it was not intended to account for every change of boat in a year) provided that the scheme was applied on an equivalent basis to all yards and berth/mooring owners.

P Ellum also stated that he had drafted an order which he would amend to reflect the current thinking.

## **102 HARBOUR MAINTENANCE AND STATE OF BUOYS**

See Minute 94 above. The buoys were all in order. N Harrisson and John Dines would scrub the buoys.

## **103 MEETING WITH MDC MATT HARWOOD-WHITE AND NIGEL HARMER**

As per Minute 88.

## **104 MILL TOWER – DEMOLITION**

D Patient had looked at the information from MDC and noted that asbestos was mentioned. The Clerk would contact MDC Planning Department to ensure MHIC would be kept informed of progress.

## **105 URGENT ITEMS OF BUSINESS**

Item a) N Harrisson reported that I Hiner had expressed concern at the recent incident at Bournemouth where there was a drowning associated with the pier and a trip boat.

Item b) I Hiner has asked that buoys and equipment be removed from his premises. D Patient would ask H Swann.

## **106 DATE AND TIME OF NEXT MEETING**

This would be Tuesday, 10 October 2023, 7 pm at Maldon Little Ship Club.

The Chairperson closed the meeting at 8.20 pm

D Patient, Meeting Chairperson