

The Highland Council

Minutes of Meeting of the **Fishery Harbours Management Board** held in Committee Room 1 on Thursday 12 December 2013 at 10.30 a.m.

Present:

Dr I Cockburn
Mr H Fraser
Mr R Greene
Mr A Henderson
Mr H Morrison

Mr B Murphy
Mr G Phillips (Chair)
Ms M Smith
Mr M Rattray

Non-Member also present:

Dr A Sinclair

Officials in attendance:

Mr N Gillies, Director of Transport, Environmental and Community Services
Mr S MacNaughton, Head of Transport and Infrastructure, TEC Services
Mr T Usher, Harbours Manager, TEC Services
Mr M Mitchell, Finance Manager (TEC Services), Finance Service
Mrs F MacBain, Committee Administrator, Chief Executive's Office

1. Apologies for Absence

There were no Apologies for absence.

2. Declarations of Interest

There were no Declarations of Interest.

3. Proposed Maintenance and Improvement Works for 2013/14

Declaration of Interest: Mr R Greene declared a financial interest in this item as Chairman of North West Scotland Inshore Fisheries Group and advised that if there was any specific discussion in relation to projects that had been awarded or turned down for funding by the Fisheries Local Action Group (FLAG) Committee he would leave the room.

There had been circulated Report No FHMB/26/13 dated 2 December, 2013 by the Director of Transport, Environmental and Community Services providing an update on the maintenance, repair and improvement works programmed at various Highland Council harbours for the financial year 2013/14.

In response to questions, it was explained that:-

- the Kinlochbervie Market Chilling project had been deferred as all monies in the European Fisheries Fund had been spent. It was possible that alternative funding might be available from 2015-16;
- offers of grant assistance had been received from the Scottish Government for repairs to the rock armour in Kyle Harbour and for ice plant repairs in Kinlochbervie;
- traffic security bollards had been installed on Broadford pier to help reduce unauthorised access, with keys provided to fishermen; and
- a low tide was awaited to finish a small proportion of work to the bottom steps of the pier at Loch Coruisk.

The Board **NOTED** the current position with regard to the works programmed as identified in Appendix A.

4. **Elgol Jetty – New Boats and Timetable**

There had been circulated Report No FHMB/27/13 dated 2 December 2013 by the Director of Transport, Environmental and Community Services advising Members of requests from two tour boat operators to operate a further three tour boats at Elgol Harbour, and inviting Members to approve a draft timetable, as detailed in Appendix A, which was designed to accommodate the new vessels.

Following a brief summary of the history of the situation at Elgol, it was pointed out that in addition to the 3 tour boats and 3 ribs that had operated from the pier in 2013, applications had been received to operate a further 3 tour boats. Information was tabled on timetabling that would accommodate the additional boats and responses to consultation on the proposed timetabling.

During discussion, Members were informed that while all operators had now signed the Code of Conduct (CoC), it was thought that some operators remained unhappy with its content. However, all operators had been given opportunity to comment on the draft CoC during the consultation period and it should not require to be reviewed for at least 18 months. Enforcement of the expected standards of behaviour was a key issue for the future and in addition to the CoC, the recently drafted Bye-Laws would be helpful, once they had been approved. The presence of the new Harbour Master had been helpful and it was thought that his role should remain one of observation, avoiding direct intervention in settling conflict between operators.

In relation to congestion, the jetty was of sufficient length to permit tour boats and ribs to berth at the same time, and this happened on a regular basis with the Bella Jane and fishing boats, with the ribs operating out-with the fixed timetable. Tour boat vessels gave way to fishing vessels as required and rib passengers wore wetsuits so were easy to distinguish from tour boat passengers. Members pointed out that competition was an essential element of the business world and there was no presumption of historical rights to use the jetty. If in the future ribs and tour boats all required time slots and there was insufficient time slots, then a system of competitive tendering might have to be devised.

In response to questions, it was explained that:-

- harbour dues for tour boats were calculated on an annual composite basis based on the length of vessel; and
- it was hoped that improvements to the infrastructure at Elgol would meet the new European Regional Development Structural Fund criteria to allow a funding application to be made. Crown Estate funding was also a possibility although Crown Estate were no longer providing grants but making investments with a view to expecting a return in that investment.

Following further discussion, Members felt that the timetable proposed in the report was acceptable because it met all requirements in a fair manner, albeit with some minor compromises. Consultation with the operators was suggested, with a final decision to be deferred until the next meeting of the Board on 30 January 2014.

The Board **DEFERRED** to the meeting of the Board on 30 January 2014 agreement of the draft timetable incorporating new vessels as detailed in Appendix A of the report and **AGREED** to consult with the operators on the proposed timetable in the meantime.

5. Kyle Pontoon Transfer

There had been circulated Report No FHMB/28/13 dated 2 December 2013 by the Director of Transport, Environmental and Community Services updating Members on the current proposals for the installation of pontoons and associated services at Kyle Harbour.

Two issues were discussed, namely the transfer of the existing pontoons to a Community Trust and the location of the new pontoons proposed by the tour boat operator within the harbour area. While the tour boat operator had plans to install his own pontoons, negotiations were underway between the tour boat operator and the Community Trust on the use of the existing pontoons. The Community Trust had obtained access to funding to renew and upgrade the existing pontoons. The tour boat was due to recommence business on 1 April 2014 and it was thought unlikely that their pontoons could be obtained and the private pontoon installed in time for this date, even if the objection was resolved quickly.

During discussion, some Members considered the location of the proposed new pontoon to be too close to the slipway even if it was re-sited to run parallel to the shore. Others felt that parallel realignment was acceptable and the alternative location would make the pontoon less visible and would require an additional break to be made in the masonry wall. In response to this, it was suggested that lack of visibility from the shore was of lower priority than the issue of marine safety.

Negotiations between the tour boat operator and the Community Trust were welcomed by Members as an agreement would be of benefit to both parties and to the local economy. In tandem to these negotiations, the Head of Transport and Infrastructure would continue to discuss the suitable siting of an alternative pontoon with the tour boat operator.

In response to questions, it was explained that:-

- the Service Level Agreement for monies paid by the Council to the Trust for the upkeep of the toilet and shower block was to ensure the Trust maintained them to an acceptable standard. This formed part of the transfer arrangement which had already been agreed by the Highland Council; and
- although ownership of the pontoons was being transferred to the Community Trust, they would remain within the jurisdiction of the Harbour Authority.

The Board **NOTED** the position.

6. New Highland Council Harbour Bye-Laws

There had been circulated Report No FHMB/29/13 dated 2 December 2013 by the Director of Transport, Environmental and Community Services advising Members of the purpose of bye-laws in relation to Port and Harbour Management and also the Highland Council's ability to create bye-laws from the provisions of various Harbours Acts. A draft set of Bye-Laws was presented in Appendix A of the report for approval such that these might be taken through the statutory approval process and incorporated within the Council's various Harbour Orders.

Hard copies of historic statutory Bye-Laws were in existence but were substantially out of date and covered only 8 of the 30 statutory harbours managed by the Highland Council. The approval process was expected to take 1-2 years depending on any objections.

Members made the following suggestions in relation to the draft Bye-Laws:-

- in Section 3 definition of 'quay' should include reference to pontoons after the word 'dolphin';
- Section 5 should include 'and registration' after the word 'draught';
- Section 17 should clarify that engines must be shut down during diving operations and this should be tied in with Section 48;
- Section 32 should be more strongly worded in relation to the prevention of littering;
- the issue of acceptable conduct referred to in the Code of Conduct drawn up for Elgol Harbour should be referred to, if appropriate, in the Bye-Laws; and
- Section 50 should clarify that tour boat operators were considered a business, with the definition of 'tour boat' first being checked with the Scottish Government.

In response to questions, it was explained that:-

- a declaration was received from cargo vessels but not necessarily from fishing vessels;
- waste plans for harbours were submitted to the Maritime and Coastguard Agency (MCA) for approval;

- it was important that safety issues around loading or unloading on the quayside were only dealt with in the Bye-Laws if they were not already covered by Health and Safety regulations; and
- once the Bye-Laws were in place, the Procurator Fiscal would have the final decision on whether or not to prosecute any contravention of them.

Members suggested that revised draft Bye-Laws be passed to the Council's legal services for comment and guidance prior to going out for consultation. The Bye-Laws would be resubmitted to the Board for approval when they were ready to be submitted to the Scottish Government for approval.

The Board **AGREED** to recommend approval to the Transport, Environmental and Community Services Committee, subject to the amendments listed during discussion and any further amendments suggested by the Council's Legal Services, of the draft Harbour Bye-Laws contained in Appendix A of the report such that these may be taken through the statutory approval process and incorporated within the Council's various Harbour Orders.

7. Lease of Property for Seafood Processing at Kyle Harbour

There had been circulated Report No FHMB/30/13 dated 2 December 2013 by the Director of Transport, Environmental and Community Services updating Members on progress regarding the issues of lease conditions and outstanding debt relating to the former Amazon Seafoods site at Kyle Harbour.

A summary of the current situation was provided, with ground rent, mortgage and insurance payments now up to date, and cautious optimism was expressed on operational activity recommencing on this key area of land at Kyle Harbour. An appeal against the rateable value of the land was being considered and the land was currently being reassessed by the Assessor. A further update would be provided at the meeting of the Board on 30 January 2014.

The Board **NOTED** the update on the current position and that another report would be provided in January 2014.

8. Financial Performance 1 April 2013 to 30 September 2013

There had been circulated Report No FHMB/31/13 dated 3 December 2013 by the Director of Transport, Environmental and Community Services setting out the financial performance of Highland Council Harbours for the period 1 April 2013 to 30 September 2013.

Declining fuel sales and fish landings, together with lower than budget margins, were challenges for the overall budget, with reasons for these including the mechanical breakdowns of various vessels, the Faeroese Government's refusal to grant white fish licences to European vessels and quota restrictions. It was clarified that figures shown in brackets in the table of fuel sales represented decreases in income.

The Board **APPROVED** the financial position to 30 September 2013.

9. Debt Management

There had been circulated Report No FHMB/32/13 dated 2 December 2013 by the Director of Transport, Environmental and Community Services providing details of the outstanding debt for piers and harbours as at 2 December 2013.

In relation to a vessel which had gone into receivership leaving a substantial sum of outstanding debt, investigations should be made into arresting this vessel if legally possible.

The Board **NOTED** the current debt position and **AGREED** to investigate arresting the vessel that had gone into receivership as detailed in the report.

The meeting ended at 12.35pm