

**The Highland Council**

Minutes of Meeting of the **Harbours Management Board** held in the Convenor's Hospitality Room, Council Headquarters, Glenurquhart Road, Inverness, on Thursday 10 April 2014 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)  
Mr M Rattray

**Officials in attendance:**

Mr W Gilfillan, Director of Community Services  
Mr T Usher, Harbours Manager, Community Services  
Mr M Mitchell, Finance Manager (Community Services), Finance Service  
Miss J MacLennan, Principal Administrator, Corporate Development Service  
Mrs F MacBain, Committee Administrator, Corporate Development Service

**Business**

**1. Apologies for Absence**

An apology for absence was intimated on behalf of Ms M Smith.

**2. Declarations of Interest**

There were no Declarations of Interest.

**3. Harbour Dues for Financial Year 2014/15**

There had been circulated Report No HMB 8/14 dated 27 March 2014 by the Director of Community Services inviting Members to recommend approval of the updated Schedule of Rates and Dues for Highland Council Harbours for the financial year 2014/15.

The report summarised the variety of Council owned and managed facilities and the comprehensive scale of dues and charges that were required to cater for the diversity of clients. Rates included an allowance for the management, operation, maintenance and improvement of the facilities. The Council, as part of the Revenue Budget setting process, had agreed a 4% increase to be applied to the specified items in the Schedule of Dues and Charges and these were appended to the report. For the avoidance of doubt, it was also clarified that dues and charges for commercial fishing vessels would not be increased.

Members supported the decision to freeze increases to the fishing industry although they were hopeful that small signs of recovery were being observed in the reducing number of vessels ceasing operation. However, this could also be due to vessels switching from fishing to other industries such as tourism. Prior to reconsideration of this freeze in future years, information on the numbers of

composite charges being levied in the last 5 and 10 years should be presented (composite charges being made to vessels 12m and under in length).

It was confirmed that prices in other harbours were monitored and, on the whole, Highland Council Harbours were considered competitive, especially for smaller leisure boats. Nairn Harbour had a separate, slightly higher set of charges following an historic agreement that followed the installation of a set of pontoons for leisure craft that had been fully funded by the Council. It was hoped that any review of the charging structure of leisure craft would be undertaken as part of the bid to increase overall yacht-based tourism.

The Board **AGREED** to recommend to the Community Services Committee a 4% increase in harbour dues and charges for leisure vessels, wharfage and miscellaneous charges.

#### 4. Strategic Business Plan

There had been circulated Report No HMB 9/14 dated 27 March 2014 by the Director of Community Services advising Members of the proposal to commission a consultant to produce a professional Strategic Business Plan to identify and plan the future business direction of the Council owned harbours.

The report explained that the Council owned and operated approximately 108 statutory harbours and marine facilities which, in addition to being run as profit-making businesses for the Council, were of vital importance to the local and wider Highland economies. It was intended that the consultant would be procured via the Consultancy Framework Contract, with details of the proposed brief outlined in the report.

A presentation was provided of some of the Council's major harbours and some of the issues that related to them. Considerable income was obtained from landing dues for French and Spanish fishing vessels, as well as Scottish fishing vessels, despite the shrinking of the Scottish fleet. Large cruise liners and ferries were also sources of income and Members expressed concern that the ongoing review of ferry services was considering, among other things, taking some ferry services away from Local Authority management.

During discussion, Members commented as follows:-

- the brief should include investigation into means of improving the collection of fees from remote facilities. Regular vessels tended to pay a composite fee, but some transitory vessels were harder to collect from;
- it was important to include the wider context of local communities in the Business Plan, including the assessment of the economic development potential for land based business not normally associated with maritime activity;
- it was important that local businesses were not disadvantaged if facilities were transferred into community ownership; and
- there was a need to assess the current status of leases with the Crown Estate and to explore whether or not the sea bed should be leased or if the Crown Estate should consider selling the sea beds to the Highland Council. A report was to be presented to the next meeting of the Board regarding the Crown Estate's proposal to enter into a Master Lease with the Highland Council and this issue could be explored as part of that.

At this juncture, the minutes of the Board meeting on 30 January 2014 were queried, with Mr H Fraser believing that he had asked for the RIB operators to be named in the minutes of the discussion of Item 5, Elgol Jetty – New Tour Boats and Timetable. In response to a question, it was explained that the Fisheries Harbours Management Board minutes had been approved at the following Transport, Environmental and Community Services (TECS) Committee. Although hard copies of papers were only circulated to Committee Members, all Elected Members received electronic PDF versions of all reports, including minutes for approval, 7 days before the meeting. Normally, Board Members were also Members of the parent Strategic Committee but Mr Fraser had been nominated to be on the Board, despite not being on the then TECS Committee, this having consequently been approved by the Council in September 2012. However, Mr Fraser's comments would be included in the minutes of this meeting and records of the last Board meeting would be checked. Members also asked that, in future, the minutes of the previous HMB be included with the next meeting's papers, for information.

The Board **AGREED:-**

- i. to recommend to the Community Services Committee the commissioning of a Strategic Business Plan via the Consultancy Framework Contract; and
- ii. *that the minutes of the previous HMB meeting be included with the papers of the next meeting, for information.*

## **5. Lease of Property for Seafood Processing at Kyle Harbour**

There had been circulated Report No HMB 10/14 dated 27 March 2014 by the Director of 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.

The report provided a full history of the situation regarding the property in question as well as the various decisions that had previously been made by the Fishery Harbours Management Board on the subject.

As part of an update on the current position, it was explained that no detailed business case had been submitted despite having been requested by the Board at the meeting in January 2014. The tenant had declined to seek direct permission from the Board for sub-lets and change of use but had mentioned the possibility of a sub-let of the building to a marine-related business for office space although nothing concrete had been presented to date.

Having explored the prospect of the sub-let and the prospective tenant, Members expressed considerable concern that the land was lying vacant, which breached the terms of the lease. Following a full discussion, Members were minded to commence action to terminate the lease and start the process of bringing the land and buildings back into use for the benefit of the harbour and the wider economy. Discussion took place as to what timescale was appropriate to give the tenant in which to present a coherent detailed Business Plan for the future use of the land and that acceptance of any such Plan should be delegated to the Director of Community Services in consultation with the Chairman. In the continued absence of an acceptable Business Plan, it was the general consensus that after the end of May 2014, subject to legal and financial checks, action would be commenced to terminate the lease.

In response to questions, it was explained that the Council owned the land, but not the buildings, which were subject to a mortgage in the tenant's name. If the Council decided to terminate the lease on the land, ownership of the buildings could pass to the mortgage company who would likely attempt to sell them. However, due to their location on Council-owned land, they could only be sold to a buyer who was willing and able to comply with the Council's lease requirements for the land i.e. that they be used for marine-related activity and they could not be permitted to lie vacant.

The Board **NOTED** the position and **AGREED** to recommend to the Community Services Committee to give the tenants until the end of May 2014 in which to provide an acceptable Business Plan for the future use of the land and buildings, approval of which was delegated to the Director of Community Services in consultation with the Chairman, after which time, subject to legal and financial checks, proceedings would commence for termination of the lease.

## 6. Badentarbet Pier Structural Report

There had been circulated Report No HMB 11/14 dated 27 March 2014 by the Director of Community Services advising Members of a structural survey/report undertaken by Wallace Stone in 2013 on Badentarbet Pier, Ross and Cromarty, on behalf of the local community. Members were asked to note the conclusions of the report including the integrity of the structure, the cost of repairs and the position of the community, and consider the possible closure of the pier due to Health and Safety concerns.

The report provided a summary of the history and current usage of Badentarbet Pier as well as the other local facility, 'Old Dornie', which was currently being considered for community ownership and eventual extension, although this process would take a number of years. The structural report on Badentarbet Pier was appended to the report, with the estimated cost of the required repairs being around £1.3m.

Members' attention was drawn to the quote from the structural report which stated that 'the possibility of structural failure or collapse in the near future could not be ruled out.' However, a letter had also been received from the Consulting Civil Engineers who had provided the structural report which suggested significantly reduced risk of collapse if vehicular traffic was restricted and all access to the pier-head prevented.

During discussion, it was established that while inconvenience might be faced by certain vessels who currently used Badentarbet and would have to make a longer trip to Old Dornie, it was the tour boat which operated from Badentarbet that would be affected most if the pier was closed due to the inaccessibility of the alternative facility, Old Dornie, during low tides. Members were keen to maintain pedestrian access to the pier to allow the continued operation of the tour boat, at least until the end of September 2014 and, if possible, until September 2015. It was acknowledged that the latter scenario would require a further structural report to be undertaken following the 2014/15 winter, at considerable cost. Despite Members' wish to facilitate the continued operation of the tour boat from Badentarbet, it was acknowledged that advice had to be sought from the Council's Legal Services, particularly on the impact of the wording of the mitigating letter from the civil engineers, dated 24 March 2014, some of which was vague and

required clarification. If it was decided that the structure was to remain open for pedestrian use, evidence had to be provided that the tour operator's insurer had been informed of the content of the Civil Engineer's report.

In response to a question, it was explained that the Council had no legal obligation to maintain facilities outwith a statutory harbour, but they did have an obligation to ensure that any structures owned were safe and, if not, closed to the public.

Once legal advice had been sought, it was confirmed that a special meeting of the Harbours Management Board could be called, if necessary, to make a final decision on the closure of Badentarbet Pier. Although a meeting at short notice might mean that not every Board Member was available, it was accepted that the availability of the Chair and the two local Members who also sat on the Harbours Management Board be taken into account in the first instance.

In relation to community plans to improve the facility at Old Dornie, the Director brought Members' attention the Coastal Communities Fund, which required applications to be submitted by the end of April 2014. It was emphasised that a funding application would have to be prepared and submitted by the Community Group but that Council officials could check the application prior to submission. In this connection, the Board were of the view that, as the Coastal Communities Fund had been extended to 2016/17, it would be beneficial for a briefing to be provided at the next Board meeting with a view to encouraging communities to bid into it.

Also, in relation to the possible expansion of services at Old Dornie, Members expressed concern at the sharp hairpin bend on approach to the settlement which would require investigation to ensure it was safe and sustainable for the vehicles using it. If appropriate, the road should be included on any funding application for development.

The Board:

- i. **NOTED** the contents and recommendations of the Wallace Stone report;
- ii. **NOTED** the position of the Community in regard to the possible asset transfer and development of Old Dornie;
- iii. **AGREED** to seek advice from the Council's Legal Services in relation to the closure of Badentarbet pier to protect members of the public and, if it was decided that it was acceptable to maintain pedestrian access for a limited period of time, to seek evidence from the operator's insurer that they were fully aware of the position;
- iv. **AGREED**, if necessary, to call a special meeting of the HMB to consider the legal advice and make a final decision on whether to continue to allow pedestrian access to Badentarbet pier; and
- v. **AGREED** to check any application prepared by the Community Group to the Coastal Communities Fund for improvements at Old Dornie prior to its submission by the end of April 2014.

## 7. Fish Shop Lease, Portree Pier

There had been circulated Report No HMB 12/14 dated 27 March 2014 by the Director of Community Services advising Members that the tenant of the fish shop located on the pier at Portree harbour had decided to retire and sell the business. Members were asked to approve the issue of a new lease to the company wishing

to occupy the subjects for the purposes of processing and selling fish and approve in principle internal building modifications.

Members stressed the importance of the shop not closing as that could affect “footfall” in the future. It was suggested though that the buildings at the pier did require to be repainted to make it more welcoming before cruise ships started to use the harbour. To help meet some of the costs there was an indication that the Ward Discretionary Fund might be willing to assist.

The Board **AGREED** to recommend to the Community Services Committee:-

- i. the re-assignment of the lease to the new tenant for the period of 10 years in accordance with appropriate Highland Council procedures; and
- ii. approval, in principle, to potential internal building modification as described in the report, subject to the issue of appropriate planning and building control certificates.

## **8. Debt Management**

There had been circulated Report No HMB 13/14 dated 27 March 2014 by the Director Community Services providing details of the outstanding debt for piers and harbours as at 3 March 2014.

In addition, a tabled update was also provided which showed the position as at 1 April 2014. This showed a much improved position from that reported in the earlier version.

At this juncture, in response to a query regarding the current position regard funding for a chilled market in Kinlochbervie, it was reported that a bid had been resubmitted to the European Fisheries Fund, the outcome of which would be known in May 2014.

The Board **NOTED** the current debt position.

## **9. Valedictory**

The Chairman informed Members that Mr Sam MacNaughton, Head of Transport and Infrastructure, was due to retire on 11 April 2014. Although he was not in attendance at this meeting, the Board recorded their appreciation to him for his work and support to the Fisheries Harbours Management Board. .

The meeting ended at 12.45 pm.