

**Special Harbour Board  
Council Chamber, Town Hall, Lerwick  
Thursday 9 July 2009 at 10.00am**

**Present:**

A T J Cooper	A T Doull
E L Fullerton	I J Hawkins
R S Henderson	J H Henry
R C Nickerson	F A Robertson
C Smith	J Tait

**Apologies:**

L Boswell  
A Polson

**In Attendance (Officers):**

R Moore, Head of Ports & Harbours Operations/Harbour Master  
G Greenhill, Executive Director - Infrastructure  
A Inkster, Port Engineer  
S Summers, Administration Manager  
B Robb, Management Accountant  
L Gair, Committee Officer

**Also:**

J Budge

**Circular:**

The circular calling the meeting was held as read.

**Declarations of Interest:**

None

**25/09      Walls Pier (RCM)2316) – Survey and Design Costs**

The Board considered and approved a report by the Executive Director – Infrastructure Services, attached as Appendix 1, on the motion of Mr A T Doull, seconded by Mr R S Henderson.

(The Chairperson adjourned the meeting at 10.05am to allow  
Non Board Members to attend for agenda item 2, at 10.30am)

(The meeting reconvened at 10.30am)

**Adjourned Special Harbour Board  
Council Chamber, Town Hall, Lerwick  
Thursday 9 July 2009 at 10.30am**

**Present:**

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E L Fullerton	I J Hawkins
R S Henderson	J H Henry

R C Nickerson  
C Smith

F A Robertson  
J Tait

## **Apologies:**

L Boswell  
A Polson  
C H J Miller (for lateness)

### **In Attendance (Officers):**

R Moore, Head of Ports & Harbours Operations/Harbour Master  
G Greenhill, Executive Director - Infrastructure  
A Inkster, Port Engineer  
S Summers, Administration Manager  
B Robb, Management Accountant  
L Gair, Committee Officer

### **Also:**

L Angus  
J Budge  
F B Grains  
J W G Wills  
J G Simpson  
C H J Miller  
W H Manson

### **26/09     Port Marine Safety Code and Governance of the Port.**

The Head of Ports and Harbours Operations/Harbour Master, provided Members with a slide presentation on the Port Marine Safety Code and Governance of the Port, attached as Appendix 1.

Following the presentation, the Head of Ports and Harbours Operations provided responses to Members questions which included:-

- When risk assessments are reviewed - The Board were informed that risk assessments are carried out when required for new operations and prior to an audit being carried out. The Board were advised that a formal risk assessment had been undertaken by consultants in the 1990's and had been managed since by the Port itself. He added that when it became clear that the Sullom Voe Terminal would not close in 2000 a further Risk Assessment was carried out in anticipation of Ship-to-Ship Transfers.
- Which ports were covered by the Port Marine Safety Code and whether these should be extended?
- Would the Harbour Board be liable for insurance claims if an accident occurred in an area e.g. Symbister Harbour - Members were advised that Ferries Services operate their own Safety Management System and are audited by the Marine and Coastal Agency (MCA). The Master of any vessel is responsible for the safety of that vessel, its crew and to prevent damage to the environment. In any accident, it is likely that the Master will carry a proportion of any blame, however if the operating practices of the port were found to be lacking or not enforced then the Harbour Master and Board may be also be held accountable. Members were further advised that smaller ports currently do not have a dedicated Safety Management System, however one system to cover all small ports may be a recommendation in the future.

- Whether the ZCC Act gives the Council responsibility for private operations such as salmon farms. The Head of Ports and Harbours Operations provided an explanation on the Powers of Conservancy under the ZCC Act and advised that the Council had responsibility for any known hazard and where possible would have to make it safe. He added that the Council, as Harbour Authority, had no responsibility for accidents on private piers.
- How small ports would be affected by the ban on subsidy and whether that would affect the Reserve Fund. - Members were advised that the Board had powers under the ZCC Act, which is a unique situation. He said that ports and piers are not subsidised, and the Reserve Fund had not been affected as the Harbour Authority is in profit. Members were reminded that although the Council has a number of ports and piers throughout Shetland, they all fall under the same Harbour Authority. The Chairperson added that a requirement of the ZCC Act was that ports and pier users are given an opportunity to express their views and this is done through the Harbour A and B Panels.
- Future proposal to have smaller Harbour Boards – The Members were advised that the MCA, Department of Transport and the Transport Division of the Scottish Government would be involved, but that this had only been an indication.
- Whether Marinas adjacent to a pier, for example Hamnavoe, would be the responsibility of the Harbour Board. - Members were advised that although the Council may help fund the creation of a marina, the marina would be operated and governed by their own constitution. .
- Care has to be taken not to take responsibility away from the Harbour Master. - Members were advised that the Harbour Master, under the Port Marine Safety Code, was responsible for the safe operation of the port even when a pilot was on board a vessel, but the Harbour Board could share a portion of blame should there be an accident. Members were informed that the Port Marine Safety Code highlights that the harbour authority has a responsibility to reduce risk as low as reasonably practicable. He noted that the MAIB had held VTS operators accountable in some instances when insufficient warning of a possible collision had been given.
- Liability of individual Members, covered by public liability insurance. - The Head of Ports and Harbours advised that he would contact the Insurance Section, but stated that he was certain that individual Members liability would be covered by the Council's public liability insurance, which also extended to Non-Councillor Members.

*(Dr J W G Wills left the Chamber)*

During the discussions, Mrs E L Fullerton, referring to the possible safety management system for small ports, sought assurance that this would not lead to further bureaucracy for pier users. The Head of Ports and Harbours Operations advised that more bureaucracy would mean more staff, and he commented that there was a need for guidelines rather than regulations to ensure, through the Board as harbour authority, that users were complying with the safety management system.

In response to a query from Mr J Tait, the Head of Ports and Harbours Operations advised that should a ship not comply with the ports safety requirements, it would be refused entry. In the event that a ship required a place of refuge, it is still possible to refuse, however the Secretary of States Representative (SOSREP) could instruct us that we must take it in. At that point the Government would have responsibility for payment of insurance claims. The government, in turn would pursue the insurance companies to help recoup the costs. Members discussed the MV Prestige, as an example where this occurred.

Mr J H Henry suggested that a summary of the safety management system be provided for the benefit of visitors. The Head of Ports and Harbours Operations said that the Port Marine Safety Code was now on-line and it would be possible to provide it in summary form.

Mr L Angus queried whether guidelines should be drawn up for vehicles using the pier, including cranes, and loading and storage units. He also suggested that it cover liability. The Head of Ports and Harbours Operations said that this may be covered by the byelaws, but it could be tied together in one booklet.

The meeting concluded at 11.40am.

A T J Cooper  
CHAIRPERSON