

MINUTE

AB - PUBLIC

Harbour Board

Auditorium, Museum and Archives, Hay's Dock, Lerwick

Wednesday 7 December 2016 at 10am

Present:

M Burgess	A Cooper
B Fox	R Henderson
A Manson	F Robertson

Apologies:

M Stout
A Westlake

In Attendance:

M Sandison, Director of Infrastructure Services
J Belford, Executive Manager - Finance
J Smith, Acting Executive Manager – Ports and Harbours
B Dalziel, Harbourmaster
A Inkster, Team Leader – Port Engineering
S Summers, Administration Manager
K Adam, Solicitor
B Kerr, Communications Officer
L Gair, Committee Officer

Chair

Ms A Manson, Chair of the Board, presided.

Circular

The circular calling the meeting was held as read.

Declarations of Interest

None

Minutes

The minutes of the meeting held on 5 October 2016 were approved on the motion of Mr Robertson seconded by Mr Henderson, with the exception of the following:

24/16 – Scalloway Fishmarket Business Case – Last sentence in paragraph 3 should read “It was also suggested that the grading machine currently in the fish market should be transferred to the new fish market for flat fish.....”. The fourth paragraph should be amended to read “.... Alice Mathewson of Shetland Seafood Quality Control Limited for the work....”

25/16 Management Accounts for Harbour Board:

2016/17 - Projected Outturn at Quarter 2

The Board noted a report by the Executive Manager – Finance (F-064-F), which enabled monitoring of the financial performance of the services within its remit to ensure that Members are aware of the forecast income and expenditure and impact that this will have with regard to delivering the approved budget.

The Executive Manager – Finance introduced the report and commented on the variances highlighted in regard to the revenue and capital budgets set out in

Appendices 1 and 2. He advised that at the last meeting regarding the Shetland Gas Plant, Officers were assured that there would be ground rental only so there will be a shortfall as a result of low oil and gas prices.

In response to a question on the surplus made by Sullom Voe, the Executive Manager – Finance agreed to provide information on how much of the surplus was generated by the tugs.

The Director of Infrastructure Services responded to a question regarding the overspend in regard to the tug budget and explained that this was due to the condition of the vessels being worse than originally expected when dry docked. She said that this can be the case for instance when the banding is removed from the vessel as the true condition is not visible during initial inspections. In light of this explanation it was suggested that it could not be the tugs that created the surplus and Officers agreed to provide further information to Members.

Decision

The Harbour Board **RESOLVED** to review the Management Accounts showing the projected outturn for Quarter 2.

26/16 Pilotage Accounts for Harbour Board 2016-17 **Projected Outturn at Quarter 2**

The Board noted a report by the Executive Manager – Finance (F-065-F) which enabled monitoring of the financial performance of the pilotage services provided by the Council.

The Executive Manager – Finance introduced the report.

Reference was made to the surplus in piloting and Officers were asked what the law allows the authority to do with that surplus and whether it is necessary to reduce piloting to balance the accounts. The Harbourmaster advised that the Pilotage Act sets out what a surplus can be used for and advised that any excess can be used for certain aspects of the operation and gives more freedom on the use of surplus.

The Acting Executive Manager – Ports and Harbours added that the vessel traffic is expected to be around the same with some increase as the Clair field comes on stream, therefore it is important to ensure the right pilotage cover is in place at that point.

Decision

The Harbour Board **RESOLVED** to review the Pilotage Accounts showing the projected outturn position at Quarter 2.

27/16 Ports and Harbours Performance Report - 2nd Quarter 2016/17

The Board considered a report by the Acting Executive Manager – Ports and Harbours (PH-20-16-F), which summarised the activity and performance of the Ports and Harbours Service for the reporting period above.

Members were advised that the service plan is presented in a new format but the content is the same.

Following his introduction of the report the Acting Executive Manager – Ports and Harbours responded to questions and in acknowledging comments regarding fishing boats being turned away from both fish markets due to capacity he confirmed that the

Scalloway Fishmarket refurbishment and extension would see an increase in floor area of 50%. The Team Leader – Port Engineering added that the improvements would also mean that fish are better and more safely handled and will accommodate peaks in the industry. The Acting Executive Manager – Ports and Harbours advised that care had been taken to ensure that there is potential for further extension in the future.

Reference was made to the European Maritime and Fisheries Fund (EMFF) application and the Acting Executive Manager – Ports and Harbours advised that he had confirmation that the initial application had been received, but explained that any expenditure made at this stage was at the authority's own risk and would be lost if the application was not successful however it could be included in the bid if it is successful. The Acting Executive Manager – Ports and Harbours went on to explain that he had not been advised of any deadline at present and in terms of Brexit the latest announcement from the UK Government had been that this project will continue regardless of Brexit.

The Acting Executive Manager – Ports and Harbours advised that Peterhead had announced their funding award yesterday, therefore it is important that this project continues to push forward.

In terms of timescales the Acting Executive Manager – Ports and Harbours advised that there needs to be a full business case approved and it is hoped that will be completed by January 2017 when the tender process can start. He said that contractors need time to bid, which is likely to be by June. He said that it is important to ensure good communication with the Lerwick Port Authority and work together effectively with their fishmarket improvements. The Acting Executive Manager – Ports and Harbours said that once the professional advisers are appointed they will assist with key work on options and be part of the business case process and as the tender progresses the timescale will become clearer.

The Team Leader – Port Engineering responded to a question on the acquisition of in-house hydrographic survey equipment and advised that following reports of hazards relating to navigation in small ports a contractor came to Shetland to carry out a survey. He explained that this was an expensive piece of work therefore equipment was bought for Officers to undertake small scale surveys in house. He said it was important to be able to check for safe navigation without having to mobilise a contractor from the mainland. When asked whether a case could be made to cover the cost of the equipment through spend to save, the Board were advised that the harbour does not access spend to save as this was part of the General Fund. The Team Leader – Port Engineering advised that the equipment was under £50k and was paid for from the navigational aids budget. He also confirmed that in addition to affordability, consideration was given to what in-house expertise there was to use the equipment. He said that with his background in civil engineering he would be carrying out the surveys with assistance from engineering staff within the Roads Service.

During further questions the Acting Executive Manager – Ports and Harbours confirmed that the bare boat charter maintenance would be the responsibility of Ports and Harbours but the specification considered will be for vessels of no more than 5 years old. The Chair added that bare boat charter gives the option of "try before you buy". The Acting Executive Manager – Ports and Harbours added that it was important to be sure that the vessel can do the job required and that you have the skills in place to use it.

Decision

The Harbour Board considered the performance of the Ports and Harbours Service against its stated objectives and planned actions and gave direction on aspects of the managerial or operational activities as Duty Holder under the Port Marine Safety Code.

28/16 **Harbourmaster's Report**

The Board considered a report by the Interim Harbourmaster (PH-21-16-F), which briefed and informed the Port Marine Safety Code (PMSC) Duty Holder of the professional concerns and current status as reported by the Harbourmaster.

The Harbourmaster introduced the report and appendices and in responding to questions officers advise of the following:

- Under the present Pilotage directions, a vessel carrying hydrogen peroxide is deemed dangerous in ports so the vessel requires a pilot to come into Sullom Voe.
- The Pilotage Directions and General Directions are being updated and are with Legal Services for advice.

(M Burgess attended the meeting)

- The Designated Person should be advised that the Toft Pier should not appear under Small Ports as it is part of Sullom Voe Harbour Area.
- Concern expressed that Minerva Gloria discharged ballast without being seen when coming into Sullom Voe. The Harbourmaster said that the ballast was likely to have been discharged under the water level. The Harbourmaster advised that the vessel was blacklisted and would not be allowed back into the harbour area until a report on the ballast had been received and this would be chased up through the shipping company. The Harbourmaster advised that dumping ballast water in Yell Sound was against the law and new ballast regulations were due out next year that means ballast will not be discharged unless it is treated and the new checks will include invasive species. He said that the MCA are aware of the Port Authorities concerns. In terms of imposing fines, the Solicitor advised that his understanding was that previously reports would be done by the environmental agency but he was not aware of any powers the port authority has to impose fines.
- Recommendation 2 of the External Audits indicates a bridging document. This is required due to the complicated relationship between the Port Operator and the Terminal Operator who both operate different systems.

In responding to question on the Designated Person Report the Harbourmaster confirmed that all harbours have to be risk assessed and includes all risks in the harbour area. He said that it also covers users and their safety.

Discussion moved to the current situation at the Toft Pier and concern was expressed that Capt. Auld had made reference to the Toft Pier with no mention of the current safety issues. The Board were advised that Capt. Auld's report would have been written prior to the further deterioration and expert advice that had led to the closure of the pier yesterday evening. Officers were unable to confirm if Capt. Auld had inspected the Toft Pier during his last visit. The Harbourmaster advised that reference to the Toft Pier should have been in his own report and that work was ongoing to find a solution to the current situation.

Reference was made to the barrier that had been erected during the night without prior notice to boat owners who now have no access to their boats. The Director of Infrastructure Services explained that over the last week work had been done with engineers to understand how serious a risk there was at the Toft Pier. She said that it became clear yesterday that steps had to be taken to stop anyone using the pier and on the advice of insurers it was necessary to have contractors secure the pier. The Director of Infrastructure Services said that it was hoped that some access would be provided but the engineers said absolutely not. She said therefore that in order to protect the Council and users of the pier action had to be taken. The Director of Infrastructure Services advised that efforts were being made to contact boat owners and they will be allowed access to move their boats. They had had notification in the weeks prior to closure that access would be restricted.

The Board were advised that discussion was being held with the Shetland Fishermen's Association and Officers will work with the industry to find a solution. She said that this action demonstrates the incredible burden upon the Council in terms of maintenance of its assets.

During further discussion, the Director of Infrastructure Services agreed that consideration would be given to using the available pontoon but indicated that work would be required on it before it could be moved to Toft. In response to a question she advised that where a case could be made to the Director of Corporate Services and the Executive Manager – Finance, emergency powers could be initiated for emergency works without following the normal tender process.

In terms of undertaking extensive improvements works to the Toft Pier the Director of Infrastructure Services advised that in previous months Officers undertook to prepare a business case for the work required to maintain and improve the pier, but there was no evidence from the dues collected to support a business case. She said that more information was now coming in and if there is evidence that the usage and wider economic benefit was under represented it would be looked at again. The Chair stated therefore that the dues collected was obviously not reflecting the use being made of the pier and if pier users were paying their dues the Port Authority was not receiving them.

It was suggested and agreed that Toft pier would have been a better option, than Sullom Voe, for the vessel transporting peroxide, had it been available.

The Harbourmaster said that the main issue for one skipper was the lack of communication and he agreed that more should have been done as matters developed. In terms of moving forward, the Director of Infrastructure Services advised that consideration was being given to using the linkspan if engineers say that it is a safe system and an answer was expected shortly. She said that she would consider any proposal to establish a safe facility. A suggestion was made that Greggs at Setterness should be approached to see if it would be possible for their pier to be used until a mid-term solution is found. The Director of Infrastructure said that she could facilitate such a discussion. The Director of Infrastructure Services agreed to a request that Officers would work with the industry as part of any risk assessment process to find a mid-term solution until a long-term solution can be found.

A suggestion was made that, whilst a mid-term solution was being sought, access be granted to pier users but a sign be erected that states that access is at their own risk. The Board were advised that the Director of Infrastructure Services had taken advice from engineers who advised that the pier was unsafe to use in any iteration and this

advice led to the complete closure of the pier and the advice received from the insurers made it clear that liability remained with the Council. Further advice was sought from the Solicitor who advised that the occupier liability comes from statute, and even if a sign was erected the liability remains with the Council.

The Director of Infrastructure Services advised that she would keep Board Members informed of progress by email and agreed that pier users would be given access to move their boats today.

Decision

The Harbour Board considered the content of the report in its role as duty holder, and noted that the necessary management and operational mechanisms are in place to fulfil that function.

29/16 Harbour Board Business Programme 2016/17

The Board considered a report by the Team Leader – Administration (GL-52-16-F), which informed of the planned business to be presented to the Board for the remaining quarters of the financial year 1 April 2016 to 31 March 2017 and sought discussion with Officers regarding any changes or additions required to that Programme.

The Director of Infrastructure Services introduced the report and in response to a question she advised that the Scalloway Fishmarket Business Case would be reported to the Harbour Board for strategic oversight and onto the Policy and Resources Committee to get it onto the Council's Asset Investment Plan.

Decision

The Harbour Board considered its planned business for the remaining quarters of the current financial year (1 April 2016 to 31 March 2017) and **RESOLVED** to approve any changes or additions to the Business Programme.

The meeting concluded at 11.10am.

Chair