

WITHAM FIRST DISTRICT INTERNAL DRAINAGE BOARD

Minutes of the eighty fourth meeting of Witham First District Internal Drainage Board, incorporating the Board's Annual General Meeting, held on Tuesday, 5th November 2013 at Washingborough Village Hall.

Present:

Mr. R Fletcher– Chairman
Mr. P Gilbert – Vice Chairman
Mr. E. Applewhite.
Mr. S.F. Cobb.
Cllr. R. Cucksey.
Mr. M.D. Harrison.
Cllr. G. Hewson.
Cllr. D. Jackson.
Cllr. R. Kendrick.
Mr. B.S. Leggate.
Mr. S.B. Leggate.
Mr. J. Mair.
Mr. L. Maplethorpe.
Mr. S. Maplethorpe.
Cllr. J.F. Money.
Mr. N. Osborne.
Cllr. C.R. Oxby.
Dr. V. Stanton.
Mr. E.H. Tonge.
Cllr. P. Vaughan.
Mr. A.S. Whitehead.

In attendance:

Mrs. Jane Froggatt Chief Executive.
Mr. Martin Shilling Director of Operations.
Mrs. Anna Wilson Finance and Rating Assistant.

The Chairman welcomed Members and Officers to the meeting, particularly Cllr. Rob Kendrick who had recently joined the Board, as a member nominated by North Kesteven District Council, and was attending his first meeting.

Apologies for absence were received from Mr. D. Armstrong, Mr. J.R. Crust, Mr. T. Gilbert, Mr. R. Hall, Mr. R. Hickling, Mr. N. Maplethorpe and Mr. D. Means.

1847 Declarations of Interest.

Members appointed by City of Lincoln Council (Cllrs. G. Hewson, D. Jackson and P. Vaughan) and North Kesteven District Council (Cllr.R. Cucksey, R. Kendrick, J.F. Money and C.R. Oxby) declared interests relating to their respective Councils. There were no further declarations of interest.

1848 Election of Chairman.

It was proposed, seconded and unanimously AGREED to elect Mr. Bob Fletcher as Chairman for the forthcoming year.

1849 Chairman's Announcements.

The Chairman thanked Members for re-electing him and proceeded to highlight several issues to the Board, as follows:

- IDB maintenance works on ELS buffer strips.

The issue of landowners being potentially penalised where IDBs had been carrying out routine maintenance works on ELS buffer strips alongside maintained watercourses had been raised by members at a previous Board meeting, subsequently at an ADA Lincolnshire Branch meeting and at the national ADA Technical and Environment Committee meeting.

The Chairman encouraged members to provide practical examples which they were willing to have cited to ADA.

- Timberland Delph.

The Chairman commented on the improvement scheme on the Board's agenda and was pleased that, following the overtopping of Timberland Delph into the Board's system last December, work had started on site as planned on 14.10.13. Completion of the scheme is now anticipated for 23.11.13, two weeks later than originally planned but due in part to the Environment Agency undertaking works to remove additional trees upstream. The low points on the left bank have now been raised and the piling works started on 04.11.13 at the spillway. When the spillway has been piled, revetted and seeded the two low points on the right bank will be raised.

- Public Sector Cooperation Agreement.

The Chairman advised members that the draft Public Sector Cooperation Agreement between the Board and the Environment Agency, on the Board's agenda today, was the only draft available when papers were circulated (and the draft is a template, Upper Witham IDB version). Since then, on 31.10.13, the final draft version for Witham First had been received and copies were tabled as an update.

The principles are the same. It is a 5 years agreement, from today subject to the Board's approval, under which the Board may undertake a broad range of services for and on behalf of the Environment Agency without the requirement for a formal procurement process. He added that when the Board completes its own maintenance work at Anwick this week, under this agreement the Board is likely to undertake weed cutting on the Environment Agency's Anwick Catchwater as rechargeable works

- .Highland water claims for 2013/14.

The Environment Agency has made discretionary payments to IDBs for many years, for their receipt of upland or Highland Water. For Witham First's Board the payment is not large (in 2013/14 the claim is £14,882). In some IDBs the monies are more significant, the Upper Witham claim being £175,189 and Witham Third claim being £235,216.

The Chairman explained that the level of claims has risen by 50%, following a wet 2012/13, such that the EA's budget for IDB claims of £511,000 is exceeded, with a claims level totalling £764,000. The matter had been raised at the ADA Lincolnshire Branch meeting on 17.10.13 and the RFCC meeting on 18.10.13, following which a meeting of IDB Chairmen and Chief Executives with Robert Caudwell, RFCC Chairman, had been held on 25.10.13.

The meeting outcome was summarised as firstly, a commitment to explore ways of simplifying the Highland water claims process and the Chief Executive would join an EA working group tasked with reviewing this. Secondly, longer-term it was suggested that options like formally extending IDBs' boundaries so that they could collect general drainage rates in extended areas should also be considered, with the interim position being to explore whether IDBs could collect rates on behalf of the EA. Short term, however, there was a funding problem for claims in 2013/14 and IDBs were asked to consider forfeiting the 16% administration element of the total claim (which is £2,160 for Witham First, £28,800 for Upper Witham and £24,000 for Witham Third). Whilst no one from IDBs wished to forfeit monies which have been traditionally paid in full, they are discretionary payments for the EA and the Chairman and Chief Executive feared the alternative may be a 33% cut to all IDB claims. IDBs had agreed to consider the proposal and the EA would circulate a written proposition.

- Volvo Excavator EC160DL.

The Chairman reported that the Board's new Volvo tracked excavator EC160DL was delivered on 23.09.13 and was now in use. It was in investment of £114,500 (excluding VAT) and the Board received £27,500 trade-in on the old Volvo machine.

1850 Election of Vice Chairman.

It was proposed, seconded and unanimously AGREED to elect Mr. Peter Gilbert as Vice Chairman for the forthcoming year.

The Vice Chairman thanked members for re-electing him.

1851 Election of 8 members of the Executive Committee.

It was proposed, seconded and unanimously AGREED to elect 8 members to the Executive Committee for the forthcoming year as follows:-

Chairman (Mr. Bob Fletcher), Vice Chairman (Mr. Peter Gilbert), Mr. Steve Cobb, Mr. Sam Leggate, Cllr. David Jackson, Mr. David Means, Mr. Norman Osborne and Cllr. Ron Oxby.

1852. Election of members to the Joint Administration Committee.

It was proposed, seconded and unanimously AGREED to elect 3 members and 2 deputies to represent the Board for the forthcoming year on the Joint Administration Committee (joint with Witham Third DIDB and Upper Witham IDB), as follows:

Members.

- Mr. Bob Fletcher (Chairman).
- Mr. Peter Gilbert (Vice Chairman).
- Mr. Sam Leggate.

Deputies.

- Mr. Norman Osborne.
- Mr. Mark Harrison.

1853 Board and Executive Committee meetings 2014.

The following meetings for 2014 were AGREED for the Board and Executive Committee:

Board (at Washingborough Village Hall).

- Tuesday, 11th February at 2pm.
- Tuesday, 22nd April at 2pm.
- Tuesday, 24th June at 2pm.
- Tuesday, 12th August at 10am.
- Tuesday, 04th November at 2pm (+AGM).

Executive Committee (at the Board's Depot).

- Tuesday, 28th January at 2pm.
- Tuesday, 08th April at 2pm.
- Tuesday, 10th June at 2pm.
- Tuesday, 29th July at 10am.
- Tuesday, 21st October at 2pm.

1854 Minutes of the Board meeting held on 06.08.13.

The minutes of the Board's meeting held on Tuesday, 06th August 2013 were APPROVED as an accurate record.

Matters arising:

Greendykes at Digby (Minute 5.0, page 535 refers).

It was reported that there had been no further request from Digby Parish Council for the Board to adopt Greendykes. However, the Board's Engineer continued to work closely with LCC and AWS to improve drainage in the village, following the Section 19 Flood Investigation. The Board is managing a rechargeable works scheme for LCC, with the

Board's staff working the length downstream of the culvert in front of 23/25 Station Road to the confluence with the EA's Digby Beck. The work to the length alongside the footpath would be let to a contractor with a mini-digger. The culvert in front of 23/25 Station Road would also be examined by CCTV as its condition is unknown.

It was confirmed that all other matters arising were on the agenda.

1855 Minutes of the Executive Committee, 22.10.13.

The minutes of the Executive Committee meeting held on 22nd October 2013 were APPROVED as an accurate record and the Committee's recommendations to the Board were NOTED.

Matters Arising:

Five Mile Development, Washingborough (Minute 18.1, page 545 refers).

It was confirmed that following the Committee's meeting, on 01.11.13 officers at North Kesteven District Council had confirmed that Campbell Construction (Lincs) Ltd. dissolved on 14.05.13. The Chief Executive had made the Board's Solicitor aware and queried the status of the £12.5k commutation sum which he held on account, pending satisfactory completion of the drainage conditions at the development site. In addition the Board's Engineer was working with Marks Specialist Transport and NKDC officers to establish whether the scheme would be completed.

Members NOTED the updated position.

1856 Closure of Annual Accounts 2012/13.

A Briefing Note had been circulated with the agenda which set out the chronology of the Annual Accounts and IDB1 Return closure process for 2012/13.

The Board had received the audited Annual Return (IDB1), returned from Grant Thornton on 18.09.13, together with the Notice of Conclusion of Audit dated 12.09.13. The External Auditor's certificate and opinion was returned with 'no matters to report which affect the audit opinion' (in other words, a clean audit for the year with no qualifications).

However, the Briefing Note also attached an External Audit "other matters report not affecting and opinion which we wish to bring to the attention of the Board". The content of this was summarised as relating to the treatment of Fixed Assets and whether Box 9 of the IDB1 Return should have been completed using historic (original cost) asset values or current (depreciated) values. Advice had been given to the Board (by Grant Thornton) to use current, depreciated values and that advice was followed in the preparation of the Statement of Accounts and the IDB1 Annual Return 2012/13. Grant Thornton (Bristol office) subsequently sought advice from ADA who they say advised them to use historic values (which is contrary to ADA's own 2006 Practitioners' Guide against which IDBs are audited).

The Chief Executive has therefore raised the inconsistency with ADA and with Grant Thornton's Bristol office as, whilst not an issue now for 2012/13 accounts, clarification is required by 31.03.14, so that 2013/14 accounts closure is done without risk of qualification.

Members NOTED that the IDB1 Annual Return for 2012/13 has been closed by the External Auditor, Grant Thornton, without qualification but that an 'other matters report' on the treatment of Fixed Assets had been issued, which the Board considered. The Board accepted the recommendation of its Executive committee to NOTE the content of the report from Grant Thornton but AGREED to await further clarification as to how all IDBs are to treat fixed assets in the 2013/14 accounts closure process.

1857 Financial Performance report to month 6 of 2013/14.

The financial performance report for the first six months of 2013/14, as at 30th September had been circulated. This covered income and expenditure against profiled budget for the period, drainage rates collection performance and bank balances.

As at 30.09.13 income for the first six months was £594,669 or £11.8k variance from £606,509 budget to date. It was explained that £8k of this variance is drainage rates arrears which will not be realised and should have been accounted for in the Balance Sheet. The budget is also £1.5k overstated compared to actual rates and hence this, in effect, puts rates income out by £9.5k for 2013/14 only.

On expenditure, the actual to 30.09.13 was £375,133 against a six months profile of £358,908, a variance of £16,225 small overspend at this stage in the year. This is mainly accounted for by insurance costs not fully included in budgets (£8k of the variance) and legal fees (£3k) mainly in relation to bridges transfer.

Whilst early in the year to predict the year end 31.03.14 position, the Board appeared broadly on target to achieve a breakeven position (if compared with 2012/13 and the high electricity costs incurred).

Drainage rates collection as at 30.09.13 was 89%, but by 11.10.13 this had improved to 91%, as final reminders had been sent out on 02.10.13, which equated to an outstanding balance of £44k drainage rates income. A verbal update was given that, as at 04.11.13 the drainage rates collection had further improved to 93.1%.

Finally, the combined bank balance for the Board as at 30.09.13 was £758,443. This is all funds held by the Board, including the £354k borrowed from the PWLB to facilitate the bridges transfer to LCC.

Members NOTED the reported financial position as at 30th September 2013, the verbal update on income, expenditure and drainage rates collection and the broadly balanced year-end forecast to 31.03.14.

1858 Schedule of Expenditure 01.07.13 to 30.09.13.

The Schedule of Expenditure for the 3 months period to 30th September 2013 had been circulated with the agenda. It totalled £228,688.56 gross, £205,161.04 net of VAT.

This included a payment of £104,400 gross, £87,000 net of VAT, to Volvo for the Board's new excavator delivered on 23.09.13. This price was after trade-in of £27,500 to the Board on the previous Volvo excavator (so that total purchase price, net of VAT, was £114,500).

The schedule also included £20,561.10 gross (£20,264.48 net of VAT) to Towergate Insurers for the Board's various insurance policies from June 2013 to June 2014. The Chief Executive was in discussion with Towergate about the increased costs of insurance on the new excavator.

Members NOTED the schedule of expenditure incurred in the three months of 30.09.13.

1859 Electricity Contracts at Pumping Stations.

A Briefing Note on electricity contracts at the Board's 13 pumping stations had been circulated with the agenda.

The Board has 3 pumping stations (North Kyme, Ringmoor and Billingham) on Non-Half Hourly (NHH) contracts with Eon which expire on 30.11.13.

The Board's Electricity broker provided quotations from Eon, BG and SSE on 08.08.13 for contracts renewal. The Chief Executive consulted with the Chairman and Vice Chairman and then switched provider to SSE based on a 22% price increase over a 5 year comparison period 2011-2016. The Board was advised that the 3 new NHH contracts with SSE will operate from 01.12.13 for 36 months to 30.11.16.

The Half-Hourly (HH) contracts at 7 pumping stations (Blankney, Walcott, Branston, Chapel Hill, Farroway, Metherringham and Nocton) expired on 31.10.13. These had been renewed in May 2013 with EDF for 24 months from 01.11.13 to 31.10.15 based on the broker's advice to fix the price early.

Members NOTED the basis of the two sets of electricity contracts, NHH and HH, renewals and new prices. It was also noted that there are a further three contracts due to expire on 30.11.14.

1860 LGPS Pensions Discretions Policy.

A copy of a proposed Local Government Pension Scheme (LGPS) Employer Discretions Policy for the Board had been circulated with the agenda. The LGPS (Administration) Regulations 2008 made it a statutory requirement that an "Employer publishes and maintains a written policy on the exercise of defined discretions". It is a requirement, therefore for the Board to formally determine discretions and to publish and maintain a policy.

It was explained that all staff in the 3 IDBs are LGPS members and therefore it would be preferable to have a joint policy. The proposed policy had been discussed with the Internal Auditor and each of the areas where the Board must explicitly agree a policy had been included. These were:

- power of the Employer to increase total membership of an active member.
- power of Employing authority to award additional pension.
- flexible retirement.
- choice of early payment of pension.

Employers were also advised to have in place policies to cover other discretions, including ill- health and redundancy.

The paper set out for each discretion and regulation a proposed 'Employer Policy' for the Board. It was these proposed Employer statements to which the Chief Executive drew members' attention.

The LGPS Pensions Discretions Policy was APPROVED and the Chairman and Chief Executive were authorised to sign and return the completed statements to the Lincolnshire Pension Fund. In addition, it was AGREED that as the Board has a duty to publish the policy, this would be uploaded to the Board's website at www.witham-1st-idb.gov.uk.

1861 Health & Safety Policy.

A proposed Health & Safety Policy had been circulated with the agenda. This is intended as the Board's overarching framework, making a policy statement about Health & Safety and explicitly agreeing the responsibility of the Board and its officers. In support of this document there is an audit trail of risk assessments, evidence of appropriate training, method statements etc.

The Board APPROVED the Health & Safety Policy.

1862 Director of Operations' Report.

The Operations Report for 01.07.13 to 30.09.13 was presented by the Director of Operations. It included:

- good progress on the summer maintenance programme with good ground conditions, albeit one pressure had been the short cereal harvest period which did mean the Board's wheeled machines were required simultaneously in various locations.
- requests for spreading of soil, emanating from the winter 2012/13 de-silting programme.
- delivery on 23.09.13 of the Board's new Volvo EC160DL tracked excavator.
- Chairman hosted an inspection by the Board on 02.07.13 to various locations in the northern part of the district.
- members' visit to the ADA working demonstration site at Cross Guns PS, near Peterborough on 17.07.13.
- the Board's open day at Timberland PS on 14.09.13 as part of the Lincolnshire Heritage event, which attracted 70+ visitors to the depot and diesel pumps.

Members were then reminded of the recommendation, from the Executive Committee meeting on 22.10.13, concerning the two tenders returned for the lifting and inspection of the 2 pumps at Blankney pumping station. This is part of the Board's programme of inspection of pump impellers, bearings and shafts which are not visible until the pump is removed from its housing and dismantled. The 2013/14 budget for pump lifts and repairs is £30k.

The Board RATIFIED the Executive Committee's recommendation to award the contract for the lifting and inspection of both pumps at Blankney PS to Perry's Pumps at a price of £765 (excluding VAT) per pump for the initial pump lift, inspection and written condition report.

Members NOTED the content of the presentation by the Director of Operations.

1863 Consents and Enforcements.

The Engineer's Report on consents and enforcement cases, within both the Board's district and the extended rainfall catchment, to 23.10.13, had been circulated with the agenda.

The number of catchment enforcement cases remained significant, the Consents and Enforcements Officer has 76 cases live of which 31 (or 41%) are Witham First ones for the LLFA in the last 6 months.

Cllr. John Money highlighted 3 cases (EW1/11 at Scopwick, FE-167-2013-ENF at Scopwick and FE-358-2013-ENF at Dunston) and it was confirmed that all 3 would be subject to CCTV.

Members NOTED the report.

1864 Planning Applications.

A summary of planning applications considered responses sent to Local Planning Authorities provided by the Board's Engineer.

Some concern was expressed about an application to NKDC at Willow Croft, Fen Road in Washingborough for a home based business and domestic store.

It was reported, by members, that this application had recently been approved by NKDC. The Board's Engineer had highlighted past flood events to the LPA and the risk of overtopping of the EA's maintained Washingborough Roadside South possibly leading to flows crossing the road into the property or the proposed building.

Accepting that there were concerns about flood risk on this particular application, the report was NOTED by members.

1865 Potential Bridges & Culverts transfer to LCC.

A Briefing Note had been circulated which outlined progress in the Board's potential transfer of the 18 bridges and culverts to LCC.

The Chairman, Vice Chairman, Chief Executive and Director of Operations had met with two solicitors at Sills & Betteridge on 11.10.13, one a litigation partner.

The conclusion reached was that the Board and LCC should proceed with a Part 8 Chancery Division Claim (a friendly action between two public authorities) to settle definitively the question of ownership of each of the 18 structures. The Part 8 claim is a procedure used to seek the Court's decision on a question which is unlikely to involve a substantial dispute of facts. The decision would be binding, unlike the alternative route which is to use the Adjudicator to the Land Registry. This, whilst a helpful route in property disputes, the Board was advised will not give the Board a clear, legally binding verdict on ownership.

The Board's Executive Committee had been supportive on 22.10.13 of proceeding with the Part 8 Chancery Division claim, subject to an indication of costs from Sills & Betteridge.

A further issue had been raised by Sills & Betteridge on 11.10.13, namely that two or three of the structures appear to be partially in the ownership of landowners, some of them the Board's ratepayers. It was agreed at the meeting that before the Board and LCC start on the Part 8 claim route, all complications of other title claim need to be resolved. Sills & Betteridge were to draft letters to landowners and representatives of the Board would seek to meet them to reach agreement that the structure comes out of their ownership.

In conclusion, it was NOTED that Sills & Betteridge have approached LCC to obtain confirmation that they are willing to resolve the issue of ownership of the bridge/culvert structures via a Part 8 Chancery Division Claim, that they are preparing letters to relevant landowners about relinquishing title and finally that a costs estimate will be prepared by Sills & Betteridge for the Board's costs in pursuing the claim. An update will be provided to the Board's next meeting by the Chief Executive.

1866 Additional Access Licence at New Cut Access Track, Digby Pumping Station

A written update had been provided on the additional access licence the EA had requested in May 2012 at the Board's New Cut Access Track, adjacent to Digby Pumping Station. The existing licence dates from 10th August 1961 and enables the EA to use the track, leading to Digby Fen PS, to gain access to Dorrington Dyke. This agreement is to remain intact and the Board had agreed in principle to grant an additional licence, enabling the EA to sell Dorrington Dyke Clay Pits with private access.

It was reported that on 22.10.61 the final licence had been received and this had been signed and returned to Sills & Betteridge by the Chief Executive on 24.10.61, as both sets of solicitors were then satisfied with its content. That content was summarised as follows:

- that the permitted use is for private family and recreational use and occasional necessary agricultural use only, but for no other purpose.
- the licence will be personal to the Maplethorpes. Therefore, at any point that James and Bridget Maplethorpe do not own the property, the licence will cease.
- there will be no right for the Board to terminate the licence unless the Maplethorpes are in breach of any of the conditions contained at Clause 3 (eg. permitted use, breach, change of route, damage to property, obstruction of route or deposit of waste, use by vehicles in excess of 12 tonnes laden weight).
- the Board will receive a commutation sum of £3k.

Members NOTED that terms of the additional access licence had been agreed and that, in due course, the Board would receive a commutation sum of £3,000.

1867 Twenty Foot Drain, Chapel Hill.

An update had been circulated on the significant bank slip on Twenty Foot Drain which occurred in December 2012. Urgent repair works had then been undertaken to maintain safe access, but a longer term repair is required as there is significant obstruction in the watercourse, with an impact on Chapel Hill Pumping Station.

The Engineer's intended solution is to strengthen the batters by horizontal layers of geogrid reinforcement, with works ideally undertaken by contractors. A topographical survey or the drain profiles had been passed to a consultant. This made assumptions regarding the quantities of buried rock and concrete on site.

A verbal update was given that the scheme estimated cost for reinstatement of the slips has now been received and, at £87,360 + VAT, is far higher than envisaged. Further consideration will be given to what scheme could be done in-house and at what estimated cost. The Board's Engineer will develop a proposal.

1868 Timberland Delph.

A paper had been circulated which outlined the basis of the Environment Agency's £40k scheme at Timberland Delph to raise the bank at 6 low spots and armour the crest at the point of the existing lowest bank level of 3.36m AOD with geotextile and trench sheet piling, to reduce the risk of a breach and to create a planned spillway.

Members NOTED the nature of the scheme and the planned completion date of 23.11.13.

1869 Replacement of the Board's Pump Van.

The Board's Executive Committee had considered on 22.10.13 the results of two separate invitation to tender exercises, each to six companies, to provide firstly a replacement pump van and secondly (as agreed by the Board) to replace the pump van with a SWB 4 x 4 vehicle.

The Executive Committee had agreed that the current pump van, registered in 2006 and with 85,000 mileage, should be replaced. The LR Defender option at £19,229 (excl.VAT) had been discounted. The option of a Citroen Berlingo at £8,800 (excl.VAT) was still under consideration, but officers had been asked to explore a 4 x 4 version.

After discussion, the Board AGREED the recommendation from Executive Committee that, providing costs were contained within the approved 2013/14 budget of £23,000 for 4 x 4 replacement and £4,000 income for trade-in of the existing van, the Director of Operations was authorised to purchase either a 4 x 4 Citroen Berlingo (or similar, eg. Peugeot) or an ex-demonstrator vehicle or used SWB 4 x 4 vehicle.

1870 Public Sector Cooperation Agreement.

A template Public Sector Cooperation Agreement (PSCA) had been circulated with the agenda, as the basis of a 5 year agreement between the Board and the Environment Agency under which the Board would have flexibility to undertake a broad range of work without the need for the 2 authorities to be subject to a procurement process. A version specific to Witham First DIDB was tabled.

As outlined earlier by the Chairman, at least one potential rechargeable works job at Anwick Catchwater was likely to be undertaken by the Board for the EA in 2013/14.

Members APPROVED the PSCA for a 5 years period.

1871 Any other business.

There were no further items of business.

1872 Date, time & place of next meeting.

The next meeting of the Board was confirmed for Tuesday, 11th February 2014 at 2pm in Washingborough Village Hall.

.....Chairman.....Date

W1st BM 05.11.2013