

EXETER HARBOUR BOARD

Date: Thursday 15 December 2022
Time: 5.30 pm
Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting.

If you have an enquiry regarding any items on this agenda, please contact Sharon Sissons, Democratic Services Officer (Committees) on 01392 265115.

Entry to the Civic Centre can be gained through the rear entrance, located at the back of the Customer Service Centre, Paris Street.

Membership -

Councillors Williams (Chair), Ellis-Jones, Leadbetter, Pearce, Read and Snow and Messrs Adams, Garratt, May, Michaelson, Owen and Sitch

Agenda

1 **Apologies**

2 **Minutes**

(Pages 5 -
10)

To approve the minutes of the Exeter Harbour Board meeting held on 26 October 2022.

3 **Local Government (Access to Information Act 1985 - Exclusion of the Press and Public**

It is considered that the Board would be unlikely to exclude the press and public during consideration of the items on this agenda, but if it should wish do so, then the following resolution should be passed:

RECOMMENDED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the particular item(s) of business on the grounds that it (they) involve the likely disclosure of exempt information as defined in the relevant paragraphs(s) of Part 1, of Schedule 12A of the Act”.

4 **Declarations of Interest**

Members are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless

the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

5 **Public Questions**

A period of up to 15 minutes is available to deal with questions relating to the business of the Harbour Board from the public.

Details of questions should be notified to the Corporate Manager Democratic and Civic support via the committee.services@exeter.gov.uk email by 10.00am at least three working days prior to the meeting. For this meeting any questions must be submitted by 10.00am on 12th December 2022.

6 **Exeter Port Users Group Update**

To receive a verbal update from the Chair of the Exeter Port Users Group (EPUG) – Rex Frost

7 **Topsham River Commissioners - Presentation**

Invitation to Topsham River Commissioners to present on their activities.

8 **Harbour Master's Report**

To receive a quarterly report from the Harbour Master. (Grahame Forshaw)
attached

(Pages 11
- 14)

9 **Outline of Harbour Review Order Process**

Lara Moore, Marine and Transport Lead at Ashford's Solicitors to attend to outline details of the Harbour Review Order process.

10 **Visioning Day Discussion**

To discuss proposed date and topics.

Date of Next Meeting

The next scheduled meeting of the Exeter Harbour Board will be held on **Monday** 13 March 2023 at 5.30 pm in the Civic Centre.

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EXETER HARBOUR BOARD

26 October 2022

Present:

Councillor Ruth Williams (Chair)

Councillors Ellis-Jones, Pearce, Read, and Messrs Adams, Garratt, Michaelson and Sitch

Apologies:

Councillors Leadbetter and Snow and Mr. Richard Eggleton

Also present:

Harbour Master Exeter Port Authority, Harbour Patroller (NS) and Democratic Services Officer (SLS)

17 **Minutes**

The minutes of the meeting held on 23 June 2022 be taken as read and signed by the Chair as a correct record, subject to an amendment in relation to Minute No.16, bullet point 1 to substitute the word 'Canal' for 'Canoeing' in relation to the reference to the Licensing Scheme.

18 **Declarations of Interest**

No declarations of discloseable pecuniary interest were made.

19 **Public Questions**

No public questions were received.

20 **Update from the Exeter Port Users Group**

The Chair of the Exeter Port Users Group, Rex Frost presented an update on the Group's recent activities and reported that:-

- the AGM had been held in late March which noted that the Council intended to explore pursuing a Harbour Revision Order (HRO) when possible.
- in mid-April, along with the Harbour Master, he had taken Ben Bradshaw, MP for a trip along the River Exe who had offered to continue to support, where possible, in communicating any local waterways issues at a Government level, although it was his intention to stand down at the next General Election.
- he had enjoyed the working relationship with the previous Chair of the Board and he looked forward to working with the new Chair.
- he welcomed the time spent on the water by members of the Board over the summer.
- the decision to realign the entrance channel of the river was welcomed as the new channel was deeper, providing vessels with greater access to the river and allowing additional time for safe navigation. The delay in replacing the Safe Water mark was regrettable, but illustrated the current problems of supply and procurement which were seen in other commercial enterprises at present.
- he was aware that the Harbour team had been busy, realigning buoyage in the river, due to shifting sandbanks, as well as the continuing problem of wreck removal. He noted plans to connect wreck disposal with other waste

disposal activities, but at present that was very local and costly. Though it was a major problem in other countries, other ways in which it can be tackled more efficiently needed to be addressed. There were the beginnings of national boat disposal schemes in some European countries, but there were no current plans from the British Marine Industry.

- the ancient timbers in Trews Weir had been exposed to the air over the summer months and had begun to deteriorate and the Group were concerned as it maintains the water level for the canal.

A Board Member suggested that Ben Bradshaw MP may still have a role to play in the future progression of waterways matters and there may be the opportunity to continue to lobby him for support. Mr Frost responded to Board Members' comments and confirmed that he had taken out Simon Jupp MP for a similar trip last year, but had not engaged with the M.P's covering the other side of the River Exe, Mel Stride MP (Central Devon) or Anne Marie Morris MP (Newton Abbot).

A Board Member commented on Trews Weir and the collapse of the St James Weir as well as the low water levels in the dry summer which had created a whirlpool effect affecting the foundations. The Harbour Master advised that Trews Weir had been inspected last year and the Engineering Lead at the Council was identifying funding before engaging engineers. He had also spoken to the Environment Agency to draw a scheme together.

Members noted the report.

21 **Harbour Revision Order Update**

The Chair advised that a report on understanding the legal obstacles to Port Marine Code Compliance would be presented to the meeting of the Council's Executive on 1 November 2022 and then to the Council meeting in December for formal approval. A copy of the published report was sent to Harbour Board Members for information.

The Harbour Master provided some background to the report and the premise of pursuing a Harbour Revision Order (HRO) as part of the progress towards Port Marine Safety Code compliance. He referred to the area of responsibility, which included the 5.5 miles of canal and 6 miles of river, both of which, were very important to the local economy and environment and took a considerable effort to manage. It was acknowledged that achieving a HRO could be an expensive and time consuming process and required some public consultation, but it would have a major and positive impact on the activities and future use of the waterways. It would also offer an oversight of control of the local waterways and help manage the level of liability.

The Chair reported that a number of Board Members had made comments on the Executive report, via email. She invited those Members to present their comments at the meeting and a summary of the key points would be shared with the Executive.

Board Members made the following comments:-

- Anthony Garratt referred to some frustration in the delay in this regard, given that the Harbour Board had been meeting for 18 months. He acknowledged the Council's challenging financial situation and did not anticipate that achieving a HRO would result in a profit making entity any time soon.
- Steve Sitch commented on the cost of the previous attempt to achieve a Harbour Revision Order and enquired if any of the work from the original

application could be used. His approach was from a commercial perspective, and he could not see how an equal income or expenditure position could be achieved. He suggested an income and expenditure report should be presented to the Harbour Board. He also referred to the Council's aspiration to achieve Net Zero and the opportunities to seek an income or revenue stream from that. *The Harbour Master responded to the comment on the previous application which had involved a very different process as it related to an application to become a Trust Port. He added that income was derived from offering storage for vessels over the winter period, and that was used to support the 52 navigation aids in the river with a regular maintenance and replacement programme.*

- Councillor Pearce considered that great progress had been made since the Harbour Board met for the Visioning event and working collectively together to see a report on Port Compliance proceeding through the Council's Executive with a view to seeking approval by the end of the year. A vision and framework had been established with a great deal of work taking place behind the scenes. He acknowledged the legitimate concern of the cost and differentials of the previous application, but that had included a public consultation, an extensive judicial review and public enquiry. It was not the intention to repeat that experience and the identified costs were potentially much lower than discussed. There was now the opportunity to move forward and regulate the waterways and ensure there were appropriate enforcement powers, as well as moving towards a financially sustainable port and the opportunity to collect harbour dues.
- Owen Michaelson raised a number of points in relation to the report and was supportive of pursuing a HRO, but considered it should be done for the right reasons. There were many good reasons to pursue a HRO, apart from concern over the potential for litigation despite adhering to the Port Marine Safety Code. There could be an increase in the Council's liability and he would like to see a future report exploring the areas to achieve including maintaining a safe place.

He suggested the Board should consider the following, ahead of an application for a HRO being submitted:-

- which parts of the Port Marine Safety Code should to be adopted, as there was recognition that all ports were different.
- to test a number of aspects relating to a HRO, particularly through engagement with the public.
- to consider the schedule of charges for adoption, acknowledging that it was a sensitive area.
- to encourage healthy living and active sport and not create a cost mechanism that discourages people from participating in active sport.

The Chair read out an email received from Board Member, Richard Eggleton, who also raised a number of points in relation to the current non-compliance of the Port Marine Safety Code and the inability to charge fees, harbour dues and licences as part of a user pays system. He also commented on the status of the Duty Holders.

Owen Michaelson referred to the Port Marine Safety Code in relation to the Duty Holders' responsibility, which set out the accountability for the organisation's compliance with the Code in ensuring safe marine operations. He sought some clarification of the position of Board Members. The Democratic Services Officer would revisit the terms of reference and seek advice as necessary to clarify the position.

The Chair welcomed the comments made which would be shared with the Executive.

Members noted the report.

22 **Harbour Master's Report**

The Harbour Master provided an update on the circulated report. He raised a number of matters of note which included:-

- the installation of another 52 metres of pontoon at Turf Lock for visiting boats this winter to limit the number of boats that were bound together to reduce damage during the winter weather along with another line of trot moorings.
- the biannual craning of boats out of the water with the first convoy of boats going from Turf Locks early next month to the winter storage. The team worked together putting in extra hours with two convoys and two lift out weekends offering a valued public service.
- the canal required a lot of maintenance particularly at the point where the M5 crossed over the canal on the east side. The canal bank was quite low and an overtopping of the canal could cause an environmental issue with a mix of fresh and salt water.
- the winter maintenance programme of moorings was about to commence.
- the Topsham ferry would pause after New Year's Day until Easter to allow the opportunity for maintenance.
- monitoring the sand banks in the River Exe which were constantly on the move was ongoing. They have been engaging with the Exe Estuary Management Partnership with regard to the proposed removal of the groins on Dawlish Warren, to try and find the best solution with the Environment Agency.

The Harbour Master responded to comments from Board Members about the costs associated with the disposal of boats on the waterways. He also advised that a new contract for boat storage had been put together and signed off by the Council's legal team. He had also met with a number of boat owners living on the canal to discuss a contract arrangement, as the Council has a no living on board policy, and there was currently no suitable infrastructure or shore side facilities. With regard to dealing with abandoned vessels, the waterways team always tried to establish ownership of a wreck as well as liaising with the Environment Agency. He would report back to the next meeting on an issue of recovery of debt relating to the management of a boat which was in a poor condition.

In response to a question, the Chair advised that the Heritage and Harbour Route map report had not been publicly released and was still under discussion.

The Chair extended the thanks and gratitude of the Harbour Board for the dedicated work carried out by the waterways team both in and out of the waterways.

Members noted the report.

23 **Update on Alternative Propulsion Power Trains - University of Exeter**

The Harbour Patroller (NS) offered a brief update and confirmed that following the Visioning Day event in January 2022, the team had approached the Council's Net Zero Project Officers to identify a baseline level for the operations and activities of the Waterways team, which included the buildings, boats, vehicles and any procurement to establish a base line of their carbon footprint. A review would be undertaken in 12 months' time to measure against that baseline. The difficulty was that the additional work and activity could result in more emissions.

Other areas of interest included research with Plymouth University around the feasibility of Remote Charging Platforms over the next few months. There would need to be a facility to charge electric motors by recreational users in the river as there was currently no land based facility and a remote platform would be useful. They were also working with Exeter University and the Centre of Future Clean Mobility team to provide some workspace to carry out work to develop a power train concept, (a propulsion method with zero emissions). The long term ambition would be to work with Exeter University and bring that kind of innovation to the port and a report would be made to the next meeting.

Members noted the report.

24 **Visioning Day Update on Actions**

The Harbour Master referred to the Visioning event held last year and sought the Board's views on holding a further event.

Board Members welcomed the opportunity to meet for a strategy event and suggested that a draft agenda of the items to be discussed, in advance to ensure a focused discussion on the day. It was good practice to meet on an annual basis and look at a timeline of how the Canal and Estuary was going to look like in five years' time. They also considered that the event should be for Board Members only, and that a separate consultation event would be useful in the future. In the meantime the Exeter Port Users Group was a conduit for residents and waterways users to raise any concerns.

The Harbour Master provided the following update on the last Visioning event:-

- it had not been possible to identify a Designated Person, as the role and task had posed a significant challenge. He was speaking with the Director City Management to seek an opportunity to formally advertise and fund the role which advises the Board independently and ensures compliance with the Code.
- the team had written a Safety Management system and Port Management Plan in house and were awaiting sign off from the Marine Compliance Agency (MCA) before sharing with the Board. A Port Passage Plan was also being compiled to tie in with the Risk assessments and the Method Statement documentation.
- the clarity of the Duty Holder would be established with the support of the Democratic Services Officer.

Members agreed that a date would be identified for the Visioning Day in January 2023

. The meeting commenced at 5.30 pm and closed at 7.00 pm

Chair

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Report to the Harbour Board 15th December 2022 from the Harbour Master

Since the last meeting of the Board we have experienced some unseasonably warm weather, our water users were still plentiful as far as early to mid-November, since then the poor weather arrived to remind that the depths of winter will soon be upon us.

Winter work on customer's moorings has started. Hopefully the last of the winter buoys will be changed by Christmas, then we will take all our customers moorings into the buoy store compound where they can be cleaned and serviced before going back out in late March.

Port Marine Safety Code compliance

It is anticipated that funding for the application to the Department for Transport for a Harbour Revision Order will be approved at full Council on 13th December and we hope to enter the expression of interest shortly to enable the process to begin.

Vessels at risk in the canal

Unfortunately a large vessel sank in the canal on the 30th of October, the MV Johnny Eager, a former fishing trawler sank at its berth on Gabriel's Wharf. A member of the public phoned in to inform the Exeter City Council control room at 07.45am and we had a member of the team on site within fifteen minutes. Fortunately, the member of staff had the presence of mind to immediately close the King's arms lock gates to prevent any pollution being blown into the main river.

All the Waterways team reported to work and our specialist contractor Adler & Allen were also called out.

Unfortunately, a considerable amount of diesel fuel had escaped from the hull but the team very quickly had a first line of defence boom around it to capture as much as we could and when the contractors arrived they put out a more substantial barrier. After that, the Waterways team started clearing up deposits of oil in the reeds using absorbent pads and the contractor started to skim heavy and emulsified oil from the surface using a specialist device.

Three other booms were deployed in stages along the canal up to the basin and the spill was very quickly cleared up. The Environment Agency were kept informed at every stage of the clean-up, press releases were issued and user groups of the canal were similarly kept updated.

The vessel was raised on the 8th of November and lifted onto the quayside at Gabriel's Wharf. Because of the size and weight of the vessel, a 300 ton crane with spreaders completed the lift. The hull is in a very poor state and it is unlikely to survive intact from being lifted again onto a trailer to go for disposal so we have approached a demolition contractor to make a plan for dismantling on site.

This work can only be done with the agreement of the Environment Agency and permission for a licence can take up to three months. As Harbour Master, I have expressed concern about the fragility of the vessel and the close proximity of the main diversion road going to Double Locks. Currently the vessel is sat on blocks, supported by steel legs and surrounded by Heras fencing with clear warning signs. Hopefully the boat can be disposed of relatively soon, however to dismantle the hull, the road would have to be closed and that cannot be done until the contractors building the new railway halt at Marsh Barton have finished at the site.

The owner of the boat has not responded to any attempt to get in contact with him.

A request to the City Council's legal department to start the financial recovery process has been made.

A number of vessels in the canal have been assessed as being at risk. To help reduce the risk going forwards we have re-written the seasonal storage contract and in future we will insist on seeing proof of insurance.

Turf moorings

42 metres of extra pontoon have been installed at the Turf and also laid a line of six 'trot' moorings that will be used as extra space for boats mooring up for the winter to help spread the load from the pontoons. If this initiative proves to be worth doing, we will extend the line next year.

Bascule bridge failure

Once again the lifting bridge at Countess Wear has failed and this time the engineers from Devon County Council have advised that the fault is more serious than the one that made the bridge unworkable for most of the summer season. Before the current fault was discovered we managed to get one convoy of vessels up to the basin, some of which have now been lifted out onto the quay for storage.

The failure of the bridge means that we will be unable to bring anymore vessels up to the basin for the near future. This failure means that our customers will not be able to have their boats lifted out at the Quay for essential maintenance or surveys etc. and inevitably this may have an impact on our reputation. The Canal Manager is in regular contact with the bridge engineers and they are fully aware of our position with this issue.

Aids to Navigation

Our Aids to Navigation will be checked by a night passage up the river as soon as the weather allows. This is to make sure that all of the lights are working to the correct sequence as published in the sailing instruction.

The new 'safe water' buoy is still waiting to be re-positioned (at the time of writing) and as soon as the poor weather abates we will ask our contractors from Teignmouth harbour to come and lay it in position at the start of the channel into the River Exe.

A new Isolated Danger buoy is soon to be placed in position to mark the wreck off Starcross Pier.

The canal team have started the winter maintenance work. The pontoon decking at Turf has started to be replaced in areas where the old wooden slats have started to rot out. We are using a plastic recycled material as replacement surface, this will not rot and give many years of trouble free use.

Inspection of the chains controlling the lock gates at Turf will need to be done this winter and we hope to do that once we have the correct safety measures in place.

Normal cutback of foliage is programmed to start as winter takes a grip, similarly drainage ditch clearance will be completed as time allows and canal bank repairs will be programmed in also.

In the river the team have made a start carrying out the winterisation of our customers moorings, we have made a huge leap in clearing out the buoy store in readiness for the anticipated refurbishment of the building.

Topsham Ferry

The causeway on the canal side has been shored up with cement bags to help prevent under scouring. The build-up of mud on either end of the landing

continues to be a problem, we are considering methods of moving the materiel in the spring.

The Topsham ferry will continue to run over the Christmas period (excluding Christmas Eve and Christmas Day) and the service will cease for the winter after New Year's Day. The service will start again toward the end of March/early April depending on the weather at the time.

On-going issues of concern

Staff working in vessels that are not Marine Coastguard Agency (MCA) coded continues to be an area of concern. However, we are going ahead with the chartering of a correctly coded workboat for our moorings and Navigation Aids servicing work and we are looking to purchase a rigid hull inflatable boat (RHIB) that is capable of being coded to act as a smaller workboat/patrol boat.

The refurbishment of the Buoy Store has still not started but we hope that work will start in the near future although a start date has not yet been confirmed.

Staffing

A member of the river team is still on long term sick leave and we have employed a casual member of staff to assist.

We also have a new member of staff at the canal who has already made a valuable contribution to the team.

Grahame Forshaw

Harbour Master December 2022