



Hayle Harbour Act 1989

## Hayle Harbour Advisory Committee

Wednesday, 9 July 2014, 2PM  
Passmore Edwards Institute, Hayle

### MINUTES

Minutes of the Hayle Harbour Advisory Committee Meeting held at the Passmore Edwards Institute on Wednesday, 9 July 2014.

#### PRESENT

Members Cllr John Bennett (Chairman), John Carter (HFA), David Flumm (RSPB), Cllr Richard Glanville (St Ives TC), Peter Haddock (Harbour Master), Cllr Howard Lyons (Hayle Chamber of Commerce), Lech Kwiatowski (HFA/HCBO), Cllr Robb Lello (HHUA), Vaughan Robbins (Natural England)

**The meeting commenced at 2pm.**

#### **14-022 WELCOME, INTRODUCTIONS AND APOLOGIES**

**Apologies** were received from:

Stephen Bassett (St Ives HM), Simon Clarke (ING), Mike Collier (MCA), Cllr John Coombe CC, Simon Jeffery (EA), Rob Jewell (Hayle Chamber of Commerce), Jenny Parker (RSPB), Capt. Rob Parsons (Designated Person), Cllr John Pollard CC, Cllr Anne-Marie Rance (SOS), Sylvia Ronan (Ramblers), Ruth Williams (CWT), Claire Gibson and Helen Wilson (Wave Hub), PC Graham Trevorrow (D&C Police)

#### **14-023 CHAIRMAN'S ANNOUNCEMENTS – FOR INFORMATION ONLY**

The chairman welcomed Graham Coad, the new mayor of Hayle, who is the town council representative on the HHAC.

#### **14-024 APPROVAL OF MINUTES OF 9 APRIL 2014 AND MATTERS ARISING**

**It was resolved** to approve the Minutes of the Meeting of 9 April 2014.

Matters Arising: None noted.

#### **14-025 HAYLE HARBOUR AUTHORITY LTD. - HARBOUR MASTER'S REPORT**

The Harbour Master presented his report. The Operational Report was accepted without comment. There were no comments on the HM Report:

**14-026 POLICE REPORT**

None received.

**14-027 COPPERHOUSE POOL WORKING PARTY**

Howard Lyons advised that there was nothing to report at present.

**14-028 HAYLE HARBOUR OWNERSHIP UPDATE**

The Chairman outlined the possible outcome of the transfer of ownership to the community. The HHAL is likely to be wholly-owned by a charitable trust, the members of which will be selected for appropriate skillsets along the lines of the Trust Port Guidance from the DfT. Democratic accountability will be achieved by having a membership body along the lines of the HHAC. The chairman asked individuals and organisations to indicate whether they would be prepared, in principle, to be members with a liability limited to £10. A form will be sent to every member of the HHAC.

**14-029 HAYLE FISHERMEN'S ASSOCIATION/HAYLE COMMERCIAL BOAT OWNERS**

No items were raised that had not already been addressed by the Harbour Master.

**14-030 ANY OTHER BUSINESS**

None.

**14-031 Date of next meeting**

8 October 2014

Subsequent meetings (2<sup>nd</sup> Wednesday, January, April, July & October):

14 January 2015 (AGM), 9 April 2015, 9 July 2015, 8 October 2015, 13 January 2016 (AGM), 13 April 2016

**Attachments:**

1. Harbour Master's Report

Minutes: jb

ALL



## HARBOUR MASTERS REPORT TO HHAC July 2014

### 1 Operational report

#### April

- Stones and gravel thrown onto the vessel San Pablo. It would appear that three young girls were the culprits as they were caught in the act by me and the DHM on the following day. The girls were given a warning and sent off site
- Minor oil spill reported in the Harbour EA were alerted and informed that HHAL were dealing with it. EA ref 01225818
- Special Branch made a routine visit to the harbour.
- Report of a small unlit vessel in the navigational channel near the Cocklebank IFCA informed
- Report of vandalism to the Canoe club changing block. Club instructed to inform the police.
- Life belts removed from housings on North quay lower walk.
- St Agnes Surf life rescue boat launched for training.
- Scaffolding erected for roof work to the stores either side of the harbour office.
- Two shot gulls recovered from North quay Gravel area: one dead, RSPCA collected the other.
- 4 Seven Beach survey of Porthkidney

#### May

- Fines washed away from behind the stonework on bank opposite the harbour office Carillion on site to repair
- Gate to the old factory site on Lelant Quay damaged
- Female paddle boarder removed from the navigable channel
- Complaint from Mrs Sue Sayer of Jet skies harassing seals. This was outside of HHAL jurisdiction those concerned were asked to contact her and the problem was resolved.
- 7 – 8 road cones thrown into the harbour.
- Slipway closed due to adverse weather conditions.
- Unserviceable Outer pole light replaced
- Inspection of Aids to Navigation by Trinity House
- The lock was removed from the North Quay gate; replaced
- Time line photography of the navigational channel.
- Ocean Enterprise (Sea Tricity) arrived re wave hub work
- Report of stolen lobsters from the shell fish pontoon
- The No swimming / jumping signage was removed from the North Quay steps by persons unknown.
- North Quay gate padlock and retaining wire cut and removed police informed crime number CR-075784 -14
- Possible attempted break in at the harbour Office. The security company who monitor the alarm reported at 0030 that the intruder alarm had activated. I attended but found no signs of forced entry reset the alarm and returned home.
- Complaint from a mooring holder that youths are on the boats.

- Complaint from a member of the public that a gang of youths at the North Quay seating area were abusive and intimidating. I attended but they had already left the area.
- HHAL received formal notification from the MMO that grant funding for pontoons on East Quay had been approved.
- Following the consultation re Harbour Directions at the April HHAC a formal application was made to DfT for Hayle to be designated with the power to make Harbour directions. Acknowledgement of the application has been received and an answer is expected in the Autumn

## June

- Yacht Niki arrived from St Ives for engine repairs
- Lifebelt housing pulled from its fixings on the North Quay by youths and thrown to one side
- Complaint from mooring holder who was trying to access his boat by vehicle that a young girl dressed only in her under garments had obviously been jumping into the harbour and had made an accusation of a sexual nature at him when he asked her to move off the quay. Mooring holder instructed to inform the police.
- UK Boarder Force made a routine visit to the harbour
- Tombstoners removed from North Quay
- Fish Survey Carnsew pool
- ING approved the purchase of a harbour boat
- Jet Ski has been sold
- An inflatable which launched from Hayle suffered an engine failure in the Bay and was towed to St Ives by the inshore lifeboat.
- MV Ocean enterprise wave hub maintenance vessel entered Hayle
- MV Devotion wave hub survey vessel entered Hayle
- Criminal damage to the old stable block. Boarding torn down and life belt damaged police informed.

## HM Report

### 1 Navigable channel

The channel has realigned itself naturally but there is still some siltation that restricts the size of vessel that can enter the harbour however the risk to users is now ALARP.

For reasons of safety and available quay space it was necessary for me to refuse entry to a vessel that was undertaking maintenance work on the wave hub site that I considered too large for the harbour L40m B14m D2.5 unladen therefore I arranged for the vessel to operate from Padstow.

### 2. North Quay Car park

The social problems that are occurring on the North Quay at night are of concern to the authority. Following a discussion with PC Trevorrow it is my intention to make the North quay parking for permit holders only and remove the pay and display. This will enable the gate to be permanently locked. Warning signage will be put in place; any non permit holder that does gain entry and is locked in will need to contact Llawnroc Parking services to be released.

**3 Slipway**

The authority is currently losing income from vessels that launch during the weekday evenings. I am exploring the possibility of placing a pay and display at the slipway to capture this lost income. The machine will require the vehicle registration or vessels name to be entered and a webcam will record all slipping activity. Llawncroc parking will monitor the slipway and issue a penalty notice to those who have launched and parked without purchasing or displaying a slipway launching ticket. This system will also help Ken and I to better manage our time when on duty as we will not be tied to the slipway.

**4 Harbour boat**

The authority has sold the Jet Ski and acquired a vessel that can be used in a policing or maintenance role.



**5 Harbour Directions**

I have submitted an application to the DfT for Hayle to be designated with the power to give harbour directions. The application has been acknowledged and would expect a decision in the autumn.

The purpose of these powers is to provide a mechanism for the harbour authority to better regulate vessel movements within its jurisdiction so as to enhance safety and reduce risks associated with both commercial and leisure vessel operations.

**6 Life Belts**

There have been several incidents where intentional damage to lifebelts has occurred not only have they been thrown into the harbour but the housings have been pulled off their mountings. One housing has been so badly damaged that it will have to be replaced. Police have been informed.

**7 Seasonal Youth Problems**

There have been numerous reports from vessel owners of youths going onto vessels and also complaints from public of abuse when walking along the North Quay. I have advised both boat owners and public to report any incidents to the police who are working closely with the harbour authority.

Peter Haddock  
Harbour Master



Hayle Harbour Advisory Committee Member

9 July 2014

Dear HHAC Member:

Hayle Harbour – Transfer to the Community

The impending transfer of ownership of Hayle harbour to the community was discussed at the AGM of the HHAC on 8 January 2014. The commitment to make a transfer of ownership is included in ING's unilateral undertaking with Cornwall Council as part of its planning consent for the South Quay development. The possible roles of the HHAC following the transfer were discussed.

Following a discussion, the following question was formulated:

***“Are members keen to play a statutory role (under company law) in a new community-based organisation – subject to the approval of the organisation they represent?”***

In an informal vote, more than half of those present voted in favour and none opposed.

**Current Status**

1. ING is committed to transferring harbour ownership and around 40ha of land to the community.
2. Under its agreement with Cornwall Council, ING is obligated to consult the community on the details of the transfer.
3. Cornwall Council has confirmed in writing that it does not wish to add Hayle to the list of municipal ports.
4. The Hayle Harbour Trust (HHT), which was set up with community support, is the only entity that has expressed willingness to take on ownership of the harbour. HHT is a company limited by guarantee and a registered charity.

**Proposed Structure of the Hayle Harbour Trust**

Recognising the need for both a competent and qualified board of trustees and an element of democratic control, HHT has proposed the following:

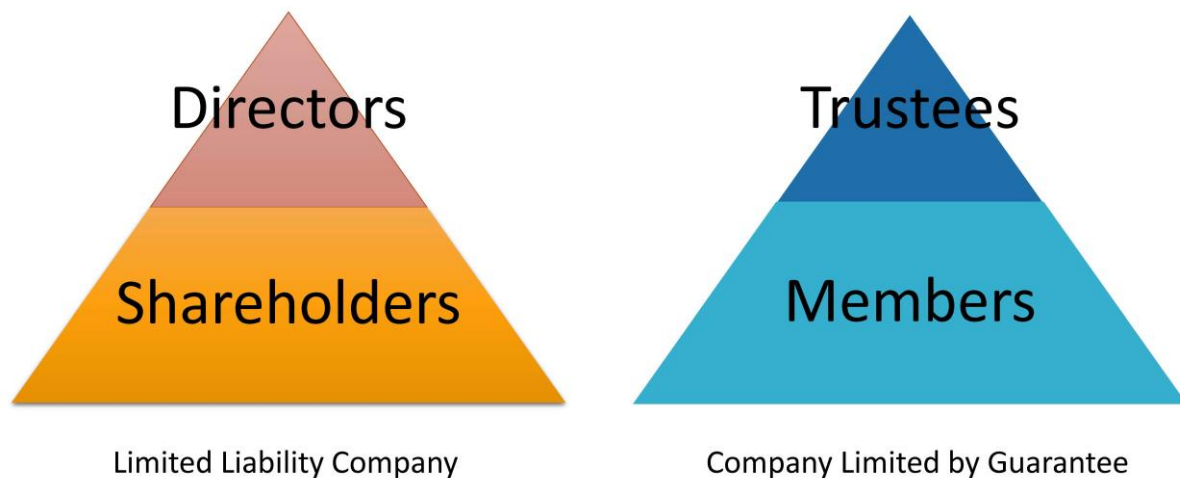
1. The interim board of the HHT will resign and a new board will be appointed using the guidance in the *Department for Transport's Modernising Trust Ports (2<sup>nd</sup> Edition)*. This calls for 8 to 12 trustees who are appointed based on job descriptions (skill sets) following advertising for applicants. As a company limited by guarantee and a charity, board members cannot be remunerated.
2. Democratic control will be exercised through a stakeholder body which represents a wide range of harbour users, statutory bodies and elected representatives. Since the



Hayle Harbour Advisory Committee already meets this requirement, the HHT has proposed that the HHAC should be the stakeholder body in the new HHT.

### **Stakeholder Control**

In a company limited by guaranty, the company is managed by directors/trustees and control is exercised by Members. Members, in this context, are similar to shareholders in a for-profit limited liability company. It is important to understand that 'Members' are appointed in accordance with the rules specified in the Articles of the company and not simply by applying for membership.



Under company law, Members accept a liability when they accept membership. This is limited in the articles to £10.

To summarise:

- The Hayle Harbour Trust will have a membership body (the stakeholder body).
- Members of the Hayle Harbour Advisory Committee can be Members of the Hayle Harbour Trust – but they must apply and accept the liability of £10. A member can resign at any time.
- Members can be individuals, companies or legal entities (such as statutory bodies or charities).

### **Why Should HHAC Members become Members of the HHT?**

The Hayle Harbour Act 1989, in its final paragraph, states:

**59.—**(1) The Company shall establish and maintain an advisory committee to provide advice to the Hayle Harbour Company on any question in connection with the discharge of the Company's functions under this Act which the Company may refer to it or on which it considers it should offer its advice.





- (2) There shall be not less than 10 members of the advisory committee, of whom not more than two may be members, directors or employees of the Company.
- (3) Membership of the advisory committee shall include persons appointed by-
  - (a) Cornwall County Council, Penwith District Council and Hayle Town Council;
  - (b) users of the harbour, or bodies representing such users; and
  - (c) bodies representing environmental interests.

The act is silent on the powers, rules, constitution and frequency of meetings of the HHAC.

If the HHAC accepts the role of the Membership Body of the HHT, it will have the statutory right, at an AGM or Extraordinary General Meeting, to appoint or terminate the appointment of the Trustees/Directors of the Hayle Harbour Trust. This would give the HHAC meaningful power and enable it to exert democratic control on behalf of the stakeholders it represents – and ensure the proper management of the harbour.

This role is completely in accordance with the Hayle Harbour Act 1989 and finally gives some meaningful authority to the HHAC.

#### **Could being a Member give rise to a conflict of interest or other complication?**

As stated above, membership of a company limited by guarantee is similar to being a shareholder in a limited company. Members are not involved in the day-to-day management of the organisation – they are not board members or trustees. Their duties are to question and advise management and to appoint (or not) trustees. No conflict of interest will arise with individuals, organisations or statutory bodies.

#### **What now?**

In order to be ready for the community consultation, which is expected to take place in September or October, it would be helpful for current members of the HHAC to take a firmer position as to whether they will be willing to become Members of the Hayle Harbour Trust Ltd. Since all of the details are not yet finalised, no commitment is expected at this time, but I would ask that you discuss that attached form with your organisation and return it to me by 31 August 2014.

For the Hayle Harbour Trust,

A handwritten signature in black ink, appearing to read "John Bennett".

John Bennett, BSc, CEng, FIEE  
Chairman



**From:** Hayle Harbour Trust, Ltd., a company limited by guarantee and a registered charity

**To:** Members of the Hayle Harbour Advisory Committee

**Question:**

Are you/is your organisation willing, in principle, to become a Member of the Hayle Harbour Trust Ltd. assuming that it takes over control of Hayle Harbour? Any decision at this stage is, of course, not binding and will be subject to sight of the final Memorandum and Articles of the Hayle Harbour Trust.

|                          |  |
|--------------------------|--|
| Name of Person           |  |
| Name of Organisation     |  |
| Position in Organisation |  |
| Phone Number             |  |
| Email address            |  |
| Response                 | I / my organisation <b>IS</b> / <b>IS NOT</b> willing, <u>in principle</u> , to become a Member of the Hayle Harbour Trust Ltd. subject to review of full details. |
| Signed                   |  |
| Dated                    |  |

Please return this form by 31 August 2014 to:

Chairman, Hayle Harbour Trust Ltd.

18 Riviere Towans

Hayle, TR27 5AF

chairman@hayleharbourtrust.org.uk