

## **Kent & Essex Inshore Fisheries and Conservation Authority**

**MINUTES** of a meeting of the Authority held in the Council Chamber, Gravesham Borough Council, Windmill Street, Gravesend, Kent at 10.00am on Friday 4 September 2015

**Present:** Cllr J L Lamb (Southend BC), Mr J Nichols (MMO), Cllr P Channer (Essex CC), Cllr A Wood (Essex CC), Cllr A Bowles (Kent CC), Ms I Chudleigh (Natural England), Dr L Fonseca (MMO), Mr A Rattley (MMO), Mr M Higginson (Environment Agency), Ms K Hill (MMO), Ms S Allison (MMO), Ms B Perkins (MMO), Cllr S Liddiard (Thurrock Council), Mr E Hannam (MMO), Cllr M Harrison (Kent CC), Cllr A Terry (Kent CC)

**Apologies:** Mr P Wexham (MMO), Ms B Chapman (MMO), Mr S Abbotson (MMO), Mr C Hazelton (Environment Agency)

**In Attendance:** Mr P Sass (Clerk, KCC), Ms B Gibbs (Financial Adviser, KCC), Dr W Wright (Chief IFC Officer), Mr D Bailey (Assistant Chief IFC Officer), Mrs K Woods (Admin Assistant)

The Chairman welcomed Cllr A Terry as appointed Member for Kent County Council replacing Cllr Lee Burgess.

The Chairman introduced Ms Katie Hill as MMO representative until a permanent replacement for Mr Barrie Smart was appointed and Mr Matt Higginson from Environment Agency in lieu of Mr Chris Hazelton.

The following information was laid around the table:

- Email from Ms Bryony Chapman for Members' consideration in respect of Agenda items B3, B5, B8 and B10
- A new copy of papers for Agenda item B6 which had been inadvertently photocopied in the wrong order in Members' original papers.

### **18. MINUTES (A1)**

Ms B Perkins advised that her personal interest in Agenda item B6 had been incorrectly recorded as being a member of Essex NORI rather than as Chair of East Anglian Water Quality Forum, Chair of West Mersea Town Council Waterside Committee and Secretary & Treasurer of Blackwater Oystermen's Association.

Members were also made aware of a typo on page 6, second paragraph of section 8 Blackwater/Crouch MCZ Oyster Management Measures and River Roach Order (B6); the word "ouster" should read "oyster".

**RESOLVED** that the Minutes of the meeting held on 19 May 2015, as amended, were correctly recorded and that they be signed by the Chairman.

## **19. DECLARATION OF MEMBERS' INTERESTS (A2)**

The Chairman requested Members to declare any interests on the Agenda item prior to it being dealt with and advised that those with a disclosable prejudicial interest may not vote on that Agenda item.

The following Members declared interests:

- Mr A Rattley – agenda item B7 – personal interest (owner of cockle processing plant)
- Dr L Fonseca – agenda item B3, 4, 6 & 8 – personal interest (Defra employee)

## **20. BUDGET MONITORING 2015/16 (B1)**

Members were provided with an estimated revenue outturn report as at 31 July 2015. This showed an estimated underspend of £28,000, although Members were advised that this was subject to change as the year progressed.

Members were advised that there had been a saving in salary costs of approximately £21,000 due to staff changes and a delay in recruiting. Additional income of £39,020 had been received from Defra as a result of a successful bid for grant funding for Marine Protected Areas and this had been allocated to fund a one year Fishery Officer position to work on TLSE, as well as a secondment from Natural England. Members were advised that at the time of preparing the budget the Defra grant, FO position and related expenditure were not known about.

Members **NOTED** the estimated outturn position.

## **21. EXTERNAL AUDIT 2015/16 UPDATE (B2)**

Members were reminded that at the Authority Meeting held in May they instructed the Financial Advisor to consult with KCC Internal Audit to enquire if they could fulfil the role of an External Auditor as well as an Internal Auditor.

The Financial Advisor reported that KCC Internal Audit Team have advised that it was unable to act for the Authority as an External Auditor as it did not have a practising certificate and it also considered there would be insufficient independence from the Internal Audit function.

The Financial Advisor reported that upon further investigation it would appear that the information previously received from the Audit Commission conflicted with other guidance from the Department for Communities and Local Government (March 2015) and that small bodies, such as the Authority, should continue to prepare an annual report for External Audit in the same way as it did for 2014-15.

**RESOLVED** that the Financial Advisor would continue to investigate options for External Audit and report back to the Chairman & Chief Officer before the next Authority Meeting.

## **22. BASS MANAGEMENT (B3)**

The Chief Officer updated Members on EU measures introduced since January 2015 to protect bass, which included a short term ban on pelagic trawling in early 2015, a 3 fish limit per day for recreational fishermen and an increase in minimum size from 36cm to 42cm as of 1<sup>st</sup> September 2015.

The Chief Officer advised Members that the UK Government Statutory Instrument (SI) under which nursery areas had been designated, was being reviewed and IFCA's were feeding into the Defra-led review.

The Chief Officer reported that as regional fisheries managers KEIFCA held a Technical Panel Meeting on 27<sup>th</sup> July to discuss the usefulness of Nursery Areas. Members were provided with notes from the Technical Panel meeting and asked to consider the comments made by Ms B Chapman in respect of this agenda item. Other Members shared Ms Chapman's view that the Technical Panel notes did not record the concerns expressed at the meeting that the proposed byelaw area was purely intertidal, whereas the SI covered some subtidal areas lying between the ends of the piers, thereby giving subtidal refuge for juvenile bass at low water. The Chairman assured Members that these comments would be recorded in the minutes of the current meeting. The Chief Officer reiterated that the proposed byelaw would add to the level of protection given by the current legislation rather than replace it and that KEIFCA Officers had worked with the community who were supportive of the need to gather evidence to be able to advise on future steps as science developed.

A Member asked when results and data from the Seabass Project would be available and was advised by another Member that a recent update was provided at the Technical Panel meeting held in July and that the next update would be available in about a year.

Members were advised of a project being undertaken by the University of Essex to monitor sea bass in saltmarsh areas.

The Chief Officer advised Members that KEIFCA Officers had worked as collaboratively as possible with the community on the River Medway Nursery Area Byelaw. Members were reminded of the work already carried out with Rochester Oyster and Floating Fishermen (ROFF) to protect a nursery area for fish in the River Medway and were advised that since the last Authority Meeting ROFF had introduced a 'no take zone' for their members. As well as working with ROFF, KEIFCA Officers had met with and received support from local anglers & charter boat owners for the creation of this byelaw. In response to a question from a Member as to whether it would be advisable to make all nursery areas no fishing zones, the Chief Officer stated that it was an issue of proportionality; whilst some areas around the coast had been identified as having small fish in them it would not be right to ban fishing of other species e.g. mullet which were not under threat.

The Chief Officer reported that following the Technical Panel meeting, KEIFCA Officers had begun quality assuring the byelaw through the statutory process with the MMO. All of the wording and principles within the draft byelaw had been included in other pieces of recent legislation as it was felt by Officers that this would make the byelaw legally sound. However, the Defra legal team had raised issues with some parts of the byelaw, particularly around the deeming clause and how

gear should be stowed when inside the restricted area. The Chief Officer advised that he was awaiting a response to a letter written to Defra on this matter and anticipated that the issues would be resolved in the next few weeks.

Members discussed whether the byelaw, without the inclusion of the deeming clause, would be enforceable. It was considered that whilst such a byelaw would be enforceable it would almost certainly not be possible to mount a case for a successful prosecution. The Chief Officer advised that this had been recognised by other IFCA Chief Officers as a very important issue and that the Association of IFCAs would raise the matter with Defra.

**RESOLVED** that

- i) Officers hold a meeting with fishing/angling sector leaders to discuss approaches and enforcement priorities & tactics;
- ii) the response of the IFCA to Defra be noted and approved;
- iii) the recommendations of the Technical Panel in relation to Bass Nursery Areas be approved; and
- iv) An Extraordinary Meeting be arranged in October for the Authority to consider and make the proposed byelaw

### **23. MINIMUM SIZE LIMITS FOR SKATES AND RAYS (B4)**

The Chief Office advised that the landing obligation (discard ban) would come into force progressively from January 2016 when there would be a legal requirement for all catches of quota species to be retained. Members were advised that any historic byelaw requirement to return a quota species back to the sea post capture had the potential to conflict with the landing obligation, which could lead to legal ambiguity and would make enforcement very difficult. The Chief Officer informed Members that Defra were working with 4 IFCAs, including Kent & Essex, who had historic byelaws which conflicted with the landing obligation to ensure that their byelaws worked in harmony with the landing obligation without compromising their legal strength or purpose.

Members were provided with a draft Amendment Order containing amendments to be made to multiple byelaws in different districts and discussed the proposed amendment to the Kent & Essex IFCA Byelaw:

#### **Byelaw relating to minimum sizes for grey mullet, skates and rays**

No person shall take from the fishery any of the undermentioned species that measure less than the sizes described below:-

“at the end of paragraph 1 of the byelaw, after the word “below” insert “unless the landing obligation under Article 15 of Regulation (EU) 1380/2013 requires the fish to be landed”.

A Member commented that it may be useful to have information on what Article 15 of the EU Regulation was as people may not be familiar with it.

Members **AGREED** to the proposed amendment to the byelaw.

## **24. KEIFCA STRATEGIC EVIDENCE PLAN (B5)**

Members were provided with a summary of research projects undertaken by KEIFCA since 2011 and a draft strategic evidence plan for future work streams. The Chief Officer invited comments/questions from Members.

A Member congratulated the Chief Officer on a fantastic piece of work and suggested including detailed plans for the 18 key species in the KEIFCA district.

The Chairman drew Members' attention to Ms B Chapman's comments received by email in respect of this agenda item that the objectives listed for the plans should include an analysis of the IFCA's research needs so that research could be strategically prioritised and sources of additional external funding/resources sought.

Members recognised the level of strategic planning required to cross reference the increased scope of terms with Marine Protected Areas (MPAs) and sustainable fisheries work but felt the draft plan oscillated between a strategic and an operational focus and suggested that the two should be separated.

The Chief Officer thanked Members for their input and asked that their comments be emailed to him for inclusion in a revised Strategic Plan, which would then be discussed in detail at a Technical Panel Meeting, to be arranged after the budget announcement in November, and reported back to the Authority at a future meeting.

A KCC Member raised concerns on behalf of local fishermen about the increasing popularity of crabbing. The Chief Officer responded that KEIFCA Officers would investigate and their findings will be reported back to the Authority at a future meeting.

**RESOLVED** that a Technical Panel meeting be arranged to discuss a revised Strategic Plan

## **25. COLLABORATION AND JOINT WORKING BETWEEN IFCAs AND THE MMO (B6)**

Members were provided with details of work carried out to identify options for joint working with IFCAs and the MMO, as instructed by Defra. The Chairman advised Members that this was being considered and discussed by all IFCA Chairs & Chief Officers as well as the Association of IFCAs to allow for efficiencies and joint working.

Members expressed concern that, although beneficial to achieve cost efficiencies, this should not just be a funding driven issue and that the unique functions of individual organisations should not be lost, particularly as IFCAs were funded, for the most part, by local authorities.

Members **APPROVED** the joint IFCA and MMO letter of 7<sup>th</sup> August 2015

## 26. **COCKLE FISHERY (B7)**

### 1. The Thames Estuary Cockle Fishery Order (TECFO)

The Assistant Chief Officer (ACIFCO) reported to Members that the fishery was opened on 14<sup>th</sup> June but that almost immediately the industry reported to KEIFCA that the meat yields were very low. As a result, and after consultation with the licence holders and processors, the fishery was closed for 2 weeks from 19<sup>th</sup> June to allow growth rates to increase before further harvesting. Upon opening the fishery again on 5<sup>th</sup> July the industry reported that meat yields had increased but were still below average. Members were advised that in order to compensate for the 2 week closure the fishery had been extended by 2 weeks and would now close on 23<sup>rd</sup> October.

Members were reminded that at the last Authority meeting they agreed a provisional Total Allowable Catch (TAC) of 7700 tonnes for the 2015 TECFO which could be subject to change if survey results showed that growth was good and stock was available in other areas. The ACIFCO advised Members that the Autumn surveys would be carried out from 12<sup>th</sup> September, the results of which would confirm the presence and extent of spat (young cockles) and that following the surveys a meeting would be arranged with the licence holders to discuss possible additional fishing trips.

Members thanked the Officers and the Chairman, on behalf of the industry and the processors, for their flexibility in managing the fishery and allowing the 2 week closure early in the season which would otherwise have almost certainly resulted in cockles being produced that would have been detrimental to the TECFO reputation.

Members discussed the suggestion of taking ½ tonne samples from each area in order to assess meat yield & quality prior to opening the fishery for 2016.

Members **APPROVED** the actions of KEIFCA Officers for the management of the TECFO

### 2. Allocation of Cockle Licences

Members were provided with a copy of a letter received from Mr Ben Smith, a cockle fisherman from Essex, expressing his concern at the rejection of his application for a licence to fish within the TECFO area. Members discussed the legal obligations under which the Authority must consider the allocation of cockle licences. The Chief Officer reminded Members that the matter of issuing additional licences was a requirement of the Thames Estuary Cockle Fishery Order and was discussed each year by the Authority at the May Meeting.

Members **NOTED** the contents of the letter received from Mr Ben Smith

## 27. **MARINE PROTECTED AREAS (MPA) UPDATE (B8)**

The Chief Officer updated members on progress and management of a range of issues relating to various MPA sites:

1. Folkestone Pomerania

On 26<sup>th</sup> July 2015 the Secretary of State signed a byelaw banning the use of bottom towed fishing gear in the Folkestone Pomerania Marine Conservation Zone (MCZ), one of only two sites in the country that protected honeycomb worm reefs. The Chief Officer thanked Authority Members for their work in making the byelaw which was the first piece of legislation for an MPA.

2. Hythe Bay

A letter was sent to Defra on 15<sup>th</sup> June 2015 requesting confirmation of the MCZ designation status of Hythe Bay and of research funding opportunities. To date a response had not been received.

3. Defra MPA Update

KEIFCA had worked hard to prioritise and deliver management measures for EMS and Tranche 1 MCZ by the 2016 deadline set by Defra. Of the £300k additional funding made available to all IFCA's for MPA research work, KEIFCA had secured £39,020 which was being used to fund a Fishery Officer for a one year contract and other research projects.

4. Habitats Regulations Assessments

Since the last Authority meeting minor edits had been made to the Tests of Likely Significant Effect (TLSE) and these were currently being reviewed by Natural England for final formal advice. Once this had been received the documents would be available to be shared.

A Member pointed out that the meeting papers stated that at the last meeting Members approved the overall outcomes of the TLSEs but it should have stated that Members agreed to the approach in principle to the TLSEs, as the outcomes were not yet available. The Chair drew Members' attention to the email from Ms B Chapman in respect of this agenda item and her comment that she did not feel it possible to approve the outcomes as they had not yet been seen.

5. Native Oyster management within the Blackwater, Crouch, Roach and Colne MCZ Area

Members were reminded that at the last Authority meeting they agreed to fund oyster restoration trials for the next 3 years at a cost of £7,500 per year. Work was carried out in 3 test areas in the River Blackwater and 3 test areas in the Ray Sand channel during June and July 2015 by oystermen. Surveys had been conducted pre-harrowing & post-harrowing and analysis of the data would be completed over the coming months. Annual surveys would be carried out during the 3 year project to gather evidence for evaluation and grant funding would be applied for to continue the project.

Members **NOTED** the reports on the MPA Updates

## **28. FPV NERISSA UPDATE (B9)**

The Assistant Chief Officer (ACIFCO) updated Members on the progress with the build and delivery of the new Kent based Patrol Vessel and advised that the Skipper and First Mate were currently onboard the vessel undertaking sea trials. The ACIFCO stated that the RIB launch mechanism, which had been designed and built to replicate that of the FPV Ken Green, was being tested during these sea trials. The ACIFCO advised Members that they would be invited to attend a launch ceremony to be held in Ramsgate on a date to be advised.

A Member asked why the vessel's name had been changed from that previously agreed by the Authority, the ACIFCO responded that the chosen name (Protector) had already been given to a vessel registered at the port of Ramsgate and that it was not permitted for 2 vessels with the same name to be registered at the same port. The ACIFCO advised that the name Nerissa had been suggested by the Authority at the time of naming the Essex based patrol vessel (Tamesis).

Members **APPROVED** the actions of KEIFCA Officers in relation to FPV Nerissa

## **29. MEMBERSHIP OF TECHNICAL PANELS (B10)**

The Chief Officer reminded Members that Technical Panel meetings had been held over the past 4 years to address detailed and/or complex issues which had then been presented to the full Authority for discussion and decision. The Chief Officer asked Members to re-consider the composition and membership of Technical Panels.

A Member suggested that a Technical Panel ought to compose Members with the most relevant expertise for the particular matter under discussion rather than being purely statistically representative of the Authority. Members agreed that each Local Authority should be represented on Technical Panels for any matter that might have budgetary implications.

Members discussed having a 'core panel' who would attend each Technical Panel plus invited experts for individual meetings. The quorum for Technical Panel meetings was discussed and it was suggested by the Clerk that the Authority's Standing Orders should be amended to state that a Technical Panel should comprise no fewer than 8 Members with the quorum being at least one third of the total number of Members appointed to that Technical Panel, plus Chairman.

The Chairman asked that Members who wished to be included in a 'core panel' email the Chief Officer and the Chairman with a brief summary of their relevant experience and expertise.

**RESOLVED** that

- i) members who wished to be included in a 'core panel' be asked to email the Chief Officer & Chairman;
- ii) The Authority's Standing Orders be amended to state  
*"a Technical Panel should comprise no fewer than 8 Members with the quorum being at least one third of the total number of Members appointed to that Technical Panel, plus Chairman"*;

- iii) Membership should include representation from each Local Authority in respect of those matters involving financial implications; and
- iv) The Chairman be given the discretion to agree to vary the proportionality arrangements by extending an invitation to additional representatives in the light of the issues under discussion

### **30. CRISIS MANAGEMENT PLAN (B11)**

The Chief Officer advised Members that following Senior Officers' attendance at a Press Association Media training course, it had been recommended that KEIFCA develop a Crisis Management Plan.

Members discussed the draft plan provided to them and suggested that other agencies, e.g. Kent Resilience Forum, could provide support and assistance in developing a Crisis Management Plan.

**RESOLVED** that a revised plan be presented for approval at a future Authority meeting

### **31. RESERVIST POLICY (B12)**

The Chief Officer advised Members that as one of the Fishery Officers employed by KEIFCA was an RAF Reservist, it had become necessary to develop a Reservist Policy. Members were provided with a draft Reservist Policy and asked for their comments.

A Member noted that there was provision of up to 5 days paid special leave per year for training purposes and questioned what provision was in place for other KEIFCA staff. Members welcomed the Reservist Policy but felt it should mirror the HR Policy in terms of volunteering opportunities for all staff. The Chief Officer responded that the HR Policy would be looked at and details be reported back at a future Authority meeting.

**RESOLVED** that

- i) Members **APPROVE** the Reservist Policy; and
- ii) The HR Policy be reviewed to include provision for paid leave for other forms of voluntary work, subject to the approval of the Authority at a future meeting.

### **32. ANNUAL REPORT 2014/2015 (B13)**

Members were provided with a draft annual report for 2014-15 and the Chief Officer expressed his gratitude to the Assistant Chief Officer for compiling the report and to Authority Members for the work they had achieved during this period. The Chief Officer advised Members that a Chairman's Foreword would be included in the final report and requested that Members should email any comments or suggestions they had on the draft report to the Assistant Chief IFCO.

Members **APPROVED** the Annual Report for 2014-2015.

### **33. MATTERS FOR REPORT**

Members received:

- Quarterly Report of the Kent IFCO (C1)
- Quarterly Report of the Essex IFCO (C2)
- Quarterly Report of the Patrol Vessel 'Ken Green' (C3)
- Quarterly Report of the Patrol Vessel 'Tamesis' (C4)
- Sea Angling Report (C5)
- Communication Update (C6)
- Enforcement Report (C7)

In respect of Agenda item C6 a Member asked if more material could be displayed or distributed around the West Mersea area. The Chief Officer responded that this would be looked into.

### **34. ANY OTHER BUSINESS**

There being no further business, the meeting was closed at 12.54 hrs