

Kent & Essex Inshore Fisheries and Conservation Authority

MINUTES of a meeting of the Authority held as a virtual meeting at 10.00am on Monday 30 November 2020

Present: Cllr J Lamb (Southend BC), Mr J Nichols (MMO), Mr A Rattley (MMO), Mr E Hannam (MMO), Ms B Chapman (MMO), Ms R Korda (NE), Cllr A Goggin (ECC), Cllr S Walsh (ECC), Mr S Abbotson (MMO), Dr L Fonseca (MMO), Cllr L Hurst (KCC), Cllr A Bowles (KCC), Cllr H Tejan (Medway Council), Mr J Rowley (MMO)

Apologies: Cllr P Channer (ECC), Mr P Wexham (MMO), Cllr T Hills (KCC), Mr A Cansdale (EA)

In Attendance: Mr J Cook (Clerk, KCC), Ms C Green (Financial Advisor, KCC), Dr W Wright (Chief Fishery Officer), Mr D Bailey (Assistant Chief IFC Officer), Mrs D O'Shea (Office Manager), Mrs K Woods (Admin Assistant), Mr Hayden Hurst (Lead Compliance Officer), Dr P Haupt (Lead Scientific Officer), Miss A Plumeridge (Scientific Officer)

By Invitation: Mr A Craig, Mr W Baker

The Chairman informed Members that Cllr Liz Hurst had been appointed by Kent County Council as their new representative. In addition, Mr Paul Tyack, the MMO representative had been transferred to Head of Coastal operations. His replacement was Mr Justin Rowley who was the Principal Marine Officer for the Eastern team.

He also advised Members that Mr Andrew Craig was joining the meeting to answer any questions Members may have over correspondence he had submitted to the IFCA in respect of Agenda item B2 (emailed to them on 27/11/2020) . Mr William Baker had also requested permission to address Members in respect of Agenda item B4

18. DECLARATION OF MEMBERS' INTERESTS (A1)

The Chairman asked if any Member had any additional declarations to declare to the IFCA not provided previously.

Mr Rattley declared a prejudicial interest in respect of Agenda item B3 as a cockle permit holder

No additional declarations were declared

19. MINUTES (A2)

RESOLVED that the Minutes of the meeting held on 30 January 2020 were correctly recorded and that they be signed by the Chairman

20. REVENUE BUDGET MONITORING 2020/21 (B1)

Members were advised that due to the impact of Covid 19 there had been a significant change to forecasted levels of expenditure and as a result the forecasted Revenue Outturn for the year was an underspend of £112,478, which included an unbudgeted income of £47,493 from EMFF funding for Vigilant and proposed income from the MMO in respect of EU exit patrols. Details of the main variances were provided to Members in the report. The Financial Advisor informed Members that this was an important time of year for the Local Authorities in setting their budgets. Officers proposed to set a budget based on no increase in levy and the Financial Advisor would be writing to the constituent Authorities to inform them of this intention and to ask if they had any concerns over this.

Members noted the savings from holding meetings virtually and asked if this could be considered as an option once the need to do so passed. The Clerk to the Authority advised that any continuance of virtual meetings would depend on the Government extending that ability as it was normally required to hold meetings in public.

The Chairman asked Local Authority members to contact their respective Authorities to make them aware of the financial commitment and to add their support to it

Members **APPROVED** the forecasted underspend of £112,478

21. WHELK FISHERY FLEXIBLE PERMIT BYELAW 2020 (B2)

The Chief Fishery Officer reminded Members that on 31 January 2020 they had approved the making of an Emergency Byelaw which translated the minimum riddle spacing of 25mm found in the existing Whelk Fishery Permit Byelaw into a minimum shell height of 53mm with a tolerance of 5%. Members were also reminded that officers had been working with the Industry in respect of concerns over the riddling process since September 2019 when they had issued an Industry designed questionnaire to all permit holders. Officers held a meeting which involved practical work and discussion with the Industry in December 2019 which looked to address concerns that they held over the riddling process and the inspection process.

At the Authority meeting held on 16 September 2020, Members were updated on the outcomes of the work officers had undertaken with the Industry to introduce this byelaw and the results of the inspection process. Members agreed to progress with updating the current Whelk Fishery Permit Byelaw to include the conclusions and wording from the Emergency Byelaw. Members also requested that a Technical Panel be held to consider the wording of the proposed Byelaw and its Impact Assessment.

The Technical Panel, held on 4 November 2020, met to discuss and review the draft wording of the new Whelk Fishery Flexible Permit Byelaw and its Impact Assessment. The Panel was asked to consider this information together with the responses of the Industry both through inspections and correspondence and make recommendations to the full IFCA meeting on the making of the new Byelaw. At this meeting, the Panel was provided with a presentation from the Scientific Officer and Lead Compliance Officer on the research carried out on the breeding size of whelks in the Kent and Essex district and on the work undertaken by officers following the introduction of the Emergency Byelaw. The Panel also received correspondence and heard a submission from Mr Craig from the Industry.

The Chief Fishery Officer informed Members that the whelk fishery was important to fishermen in the district, especially those in Kent, as a fishery that could be relied on for an income and as a reliable winter fishery. Officers had tried to work closely with the Industry. Recommendations and suggestions from Industry had been taken on board and changes had been made to the initial byelaw. They acknowledged the letters submitted by Mr Craig on 27 November which had been circulated to Members in which he stated that "All 18 class 1 Whelk permit holders we were able to contact, out of 20 in the district, do not support the emergency byelaw" Mr Craig had expressed concern over the biological evidence base and reiterated difficulties in riddling whelks due to their awkward shape.

The Chief Fishery Officer advised Members that they would be shown two presentations which had been delivered to the Technical Panel and invited questions following both presentations.

The Scientific Officer gave a presentation on research carried out on the breeding size of whelks in the District. Members were advised that all managed fisheries were based on a Minimum Landing Size (MLS) and that recognised good practice was to allow 50% of the stock to reproduce before being caught to allow the fishery to continue in a sustainable way. No information was available on the stock model for whelks in the District, so knowledge of maturity was necessary.

It was accepted that whelks matured at different sizes across the country. In 2017 Dr Phil Hollyman presented his findings on research carried out on 250 samples of whelks taken from each of the four whelk fishing areas in the Kent & Essex IFCA District. This research identified the size at which they reached maturity which varied between 46mm and 56.1mm. He showed that although some whelks reached maturity before this size the majority of whelks did not reach maturity at 45mm. Whelks reached 50% maturity at 3 years old, although dependent on what time of the year this occurred they may not have bred as if they were removed before the breeding season they would not have had time to reproduce. Dr Hollyman's research also looked at riddle size. This showed that a 22mm riddle corresponded to a 45mm (3 year old) whelk of which 10% to 20% had likely reproduced. A 25mm riddle corresponded to a 53mm (4 year old) whelk of which 50% to 70% had likely reproduced. Kent & Essex IFCA had carried out its own research since this report in order to increase confidence in the previous study and gain further evidence on size-at-maturity. Over 12,000 whelks obtained from across the District had been dissected with the results corroborating much of Dr Hollyman's research.

The Lead Compliance Officer gave a presentation to Members on the work undertaken by officers following the introduction of the Emergency Byelaw. This byelaw laid out an inspection process to be followed by officers to check for landing of undersized whelks. This required 3 x 5kg samples to be measured and allowed a tolerance of 5% to account for the inconsistency of working at sea. As requested by Members, in February 2020 officers began to conduct inspections focussing on the main ports. Due to Covid these inspections stopped and were restarted again in July 2020 with the aim to assess if compliance with the Emergency Byelaw in a commercial setting was realistic and to engage with and develop best practice with permit holders.

Three Authority Members had witnessed the new inspection process on two separate occasions; two Members had attended at Whitstable and one Member had attended at Leigh-on-Sea. For the benefit of all Members, a video was shown of a recent whelk landing inspection. In total fourteen of the eighteen category one permit holders were inspected. These fourteen were those that were active at the time of the inspections. Of these, twelve permit holders were inspected on at least

two occasions and some were inspected more. Officers discussed the reason for any failed inspections with fishermen (three failed on their first inspection) and encouraged those fishermen to adopt the best practice used by other permit holders. On the second round of inspections, ten permit holders were inspected. Of those that had failed the first time, they passed on that occasion. This had been achieved by adapting their riddling system and in some cases moving to ground with larger whelks. It appeared that the use of rotary riddles resulted in fewer undersized whelks being retained, however flat-bed riddles were effective if the time the whelks were in contact was increased.

In summary Members were advised that the Emergency byelaw had been verified in the field; the 25mm riddle gap translated well to 53mm shell length in commercial operations, the inspection procedure was fast, fair and consistent, 5% tolerance was achievable for all permit holders

providing catch was riddled effectively and Industry had engaged with the process. Members were advised that under a full byelaw, if it were made, enforcement action would be taken for non-compliance.

The Chief Fishery Officer advised Members that the Technical Panel had asked KEIFCA to notify all permit holders of a grant scheme which could pay up to 80% of the cost of a new riddle. Letters had been sent to all current whelk permit holders and four responses had been received registering an interest in KEIFCA assisting with completing the grant application process. The Chief Fishery Officer explained that the EMFF grant scheme had now closed but expected it to be replaced with a similar scheme post 1st January 2021 and he would update Members when more information was available.

The Assistant Chief Officer explained to Members that the proposed new byelaw did not change the technical requirements from the existing Whelk Byelaw which had been in place since 2017. What was changing was where an offense might occur. The existing Whelk Byelaw stated that all whelks that passed through a 25mm riddle must be returned immediately to the sea. The Emergency Byelaw and the proposed new byelaw did not have this requirement, but instead stated that all whelks landed must be at least 53mm shell length. From the 12,000+ whelk samples that have been measured and examined by the Science Officer, KEIFCA were confident that this 53mm shell length measurement was a reliable translation of a 25mm shell width measurement. The Assistant Chief Officer commented that he believed there was still some confusion amongst the industry with the proposed new byelaw where it was believed there was still a requirement to throw back all whelks which had passed through their riddle and, understandably, they were unhappy about this as there would be a proportion of these whelks which would be 53mm shell length or larger. He clarified that this was not the case and under the proposed new byelaw, if fishermen wanted to go through the whelks which had fallen through a 25mm riddle and retain any that measured greater than 53mm in shell length, they would be allowed to do so. He also advised Members that the use of a tolerance was one that only Kent & Essex IFCA allowed; no other IFCA with whelk fishery legislation allowed this. Members were advised that the Technical Panel had received a letter from Mr Attenborough which had agreed with the pot limit and 25mm riddle but had disliked the use of electronic monitoring and spatial restrictions. These elements of the proposed byelaw were reconsidered and removed from the byelaw presented to Members today for approval. The key aspect of the proposed byelaw was that it removed the riddle inaccuracies that were creating an offence.

The CFO informed Members that the IFCA had tried very hard to work with the Industry as much as possible to provide management measures that were fair and appropriate. The use of a minimum size was a fair and transparent way of managing this fishery. He was disappointed that the Industry felt it had not been consulted and appeared to oppose the byelaw. Evidence had been collected on the biology of the stock and evidence had been provided to show that the vast majority of the permit holders had met the measures laid out in the proposed byelaw with no changes to their practices. Those that hadn't met the tolerance had engaged with the IFCA to change their practices with success.

Members discussed the matter in detail. The following questions/comments were made:

- Mr Craig's letter stated that whelks in Essex waters were proven to be much smaller than elsewhere in the UK. This was because of warmer water temperature and differences between hard and soft ground. The Member asked whether this had been taken into account.

Response: Whelks did breed at different sizes around the coast and did breed at smaller sizes in our district, with variations throughout the district. This was why the IFCA had worked with the fishermen to look at different whelks across the district with Dr Hollyman where samples from Essex, North Kent, Ramsgate to Dover and Hythe Bay had been obtained. In addition, whelks in Kent & Essex had been sampled over 2 years through an EMFF funded project. Although there were variations throughout the district it was necessary to put in place management measures that covered the whole district. Officers wanted to work with the Industry to understand the different environments throughout the district and were working with Essex University to undertake a PhD to study this in more detail.

- Mr Craig's letter stated that fishermen had been prosecuted using byelaws that were not in force. The Member asked if this was the case

Response: Officers did not enforce byelaws that weren't in force. Officers enforced byelaws that Members made.

- How many Members had sat on the Technical Panel and were the Technical Panel recommendations unanimous or were there any votes against.

Response: One member of the Panel voted against the recommendations. Eight Authority Members had sat on the Technical Panel

- Question to Mr Craig: Would Mr Craig confirm that paper provided to the Authority had been signed by 17 of the 20 permit holders

Response Mr Craig: 18 of the 20 permit holders did not support the byelaw in any way. Mr Attenborough had suggested splitting the Whitstable fishermen from the rest of the district.

- The proposed byelaw was allowing a 5% tolerance. Kent & Essex IFCA were the only IFCA in the country that allowed a tolerance in a byelaw. He had been one of the Members that had seen the demonstration of a whelk sampling inspection in Whitstable. He considered

that the process had been fair and quick. The IFCA should be mindful that it was the fishermen that had asked for an Emergency Byelaw in 2011 to protect the stock. The IFCA has moved forward to protect the stock for now and the future. In addition, he wanted to draw Members attention to an issue brought to his attention by fin fishermen who were concerned that an increase in whelk fishing was damaging the food chain for elasmobranchs. Any decrease in the minimum size could have a detrimental effect on the food chain.

- Concern as to why in the letter submitted to the Technical Panel from Mr Attenborough permit holders showed support for the byelaw against the correspondence submitted by Mr Craig.

Response: Officers had worked with Industry since September 2019 over concerns they had raised over the inspection process. The questionnaire distributed among permit holders had been designed by the Industry. The decisions and comments from the workshop held in December 2019 had been referred back to the Authority. It was acknowledged that it had been very difficult to get agreement on management measures from Industry that they all agreed with. It was not a perfect solution, however a minimum size affected everyone equally and was based on evidence and practicality.

- For those fishermen who failed the tolerance test and then subsequently passed, was their overall catch reduced as a result.

Response: details of the amount of landed catch had been recorded but were not available to provide. This could be provided following the meeting.

- Question to Mr Craig: At the Technical Panel meeting on 4 November that you attended, were you there for the entire meeting.

Response Mr Craig: Left after 1¼ hours

The Member commented that the meeting had not continued for much longer once he had left. With regard to the letter stating that 18 permit holders were against the byelaw. The Member had spoken to Mr Attenborough who had signed the letter on 27 November as Mr Attenborough had also submitted a letter to the Technical Panel that had supported the byelaw. Mr Attenborough had said that he had received a phone call from Mr Craig asking if he would support Mr Craig's letter as the byelaw would not be good for the industry. He had not seen the letter itself. Mr Attenborough had advised him that no mention had been made of the comments made at the Technical Panel or the recommendations made there. He also stated that a number of the names listed on the letter were that of fin fish fishermen who did not want the whelk fishery to remain as whelks were a food source for their fisheries. The Members stated that he questioned the validity of how this had been conducted. Officers had worked with Industry. Members had known it would take time to establish the appropriate management measures and he believed it had been conducted fairly. He had attended an inspection at Leigh on Sea on 27 November and believed it to be fair, simple, quick and efficient. He had spoken to the skipper of the vessel who had confirmed that he had been working off the North Essex coast. The skipper supported the proposed byelaw and was landing 800kg to 1 tonne of whelks each trip. He regularly fished

off Leigh on Sea; 75% of his catch was over 60mm with only 0.5% below 53mm. The Member urged the Authority to be cautious over this letter.

- Although this was not the first meeting that has been held to discuss this matter, alternative options could be considered such as closed seasons. It was important to start thinking of a process to resolve the industry dispute. How urgent was the need to make the byelaw? If it were not important to do so then perhaps more time could be given.

Response: the Emergency Byelaw was made in January 2020 and with an extension would run out in July 2021, after which the original byelaw returned. Making the new byelaw would give adequate time for statutory consultation and subsequent review by the MMO. With regard to working with the Industry it was suggested that the IFCA would work with Industry to collect data and establish an Industry/fisheries joint project to look at concerns. A whelk PhD was due to start in October 2021 to look at soft and hard ground and water temperature.

The Chairman commented that the IFCA's purpose was to ensure that it had a fishery that was sustainable, healthy and moving forward and to encourage people to come into the Industry. The Emergency Byelaw had worked but was coming to the end of its life. This was the next step to take.

Members voted in respect of the recommendation to **APPROVE**:

- I. the making of the Byelaw taking into account the Impact Assessment provided; and
- II. that the Chief Officer is delegated the authority, in consultation with the Chairman and Vice-Chairman, to make amendments to the byelaw pursuant of taking into account the consultation and the MMO formal QA to the extent that such are not considered to alter the intended effect of the byelaw

Members voted as followed:

For 13

Against 1

22. 2020 COCKLE FISHERY MANAGEMENT (B3)

Mr Rattley left the meeting for this item having declared a prejudicial interest

Members were advised that the cockle fishery within the area of the Thames Estuary Cockle Fishery Order (TECFO) had been opened between 29 June 2020 and 2 October 2020 with a TAC of 7392 tonnes. Catches of the maximum amount of 13.6m³ had been consistently landed with good to excellent yields obtained from them.

Cockle stock surveys had been carried out in September 2020. The surveys suggested that spatfall was low, with the numbers of adult cockles found high. Members were advised that this was not unexpected and that there had always been a fluctuation in population size since the early 1990s when surveys had begun to be carried out. The outlook for the 2021 fishery appeared good.

In respect of the Permitted Cockle Fishery outside of the TECFO, this fishery had opened on 6 October 2020. Members were reminded that the usual surveys had not been carried out due to Covid lockdown. The fishery had been opened based on 2019 cockle survey data with Natural England agreeing the HRA. It had been apparent to the boats fishing the area that there was not sufficient stock on the ground to make fishing economically viable or to fish sustainably. The permit holders agreed amongst themselves to return all cockles that had been caught to the sea and to return home. Members were advised that a letter had been received from the Industry requesting that under the circumstances the permit fee be refunded. The ACFO informed Members that if the survey had gone ahead as it should have it is likely that officers would have highlighted the lack of cockle and recommended that the fishery would not have been opened. If that had been the case, then the permit fees paid in advance by the Industry would have been refunded. It was therefore the recommendation of the officers that Members authorised that all permit fees be refunded.

Members **NOTED** the report and **AGREED** to refund all permit fees relating to the 2020 Permit Fishery

Mr Rattley re-joined the meeting

23. UPDATE ON NATIVE OYSTER PROJECTS (B4)

Members were reminded that the fishery had been closed in 2015 and that a Byelaw had come into effect in 2019 which allowed the fishery to be opened if stocks were deemed to have shown sufficient and sustained recovery.

The Lead Scientific Officer informed Members that as a result of Covid 19 only an incomplete survey had been carried out during 2020 and as a result the review of the status of the native oyster stock for the Blackwater, Crouch, Roach and Colne Estuaries MCZ (BCRC MCZ) would be based on the 2019 survey report.

It had been arranged that the surveys in 2020 would be carried out with engagement from local fishermen. It was hoped that the surveys planned for March 2021 would include these stakeholders.

In addition to survey work, officers had engaged with the E-NORI group, had participated in the Bradwell B consultation process and worked with Essex University to provide support for the development of a definition of an "oyster bed"

Mr William Baker addressed Members on this matter. Mr Baker advised Members that he was pleased with the progress the IFCA was making in their engagement with the fishermen. In relation to the management plan specifically for the restoration box within the Fishery he asked if the IFCA could clarify the role of E-NORI on the recovery of the native oyster habitat and fishery and in addition the role of E-NORI outside of the restoration box.

The ACFO informed Members that E-NORi was a community group made up of academics, regulators and industry and that the restoration box was an area identified as probably most likely to be successful in the cultivation of habitat for native oyster. The ACFO informed Members that the restoration box was referred to in the byelaw as a prohibited area which meant that no commercial fishing could take place. Restoration work that took place in this area whether by E-

NORI or any other body would require a licence from the MMO or a Habitat Regulation Assessment (HRA) agreed by NE. In respect of the work of E-NORI outside of the restoration box, this would be similar to that inside the box in that any work they wished to carry out would require a marine licence and HRA.

Members APPROVED the following management measures:

- I. the Blackwater, Crouch, Roach and Colne Estuaries MCZ Native Oyster Fishery would remain closed in 2020/2021 as there was no evidence of sustained levels recovery in native oyster populations in Blackwater, Crouch, Roach and Colne Estuaries (KEIFCA 2019 Oyster Survey Report);
- II. Taking into account the requirement for sustained levels of recovery as per the management plan the Blackwater, Crouch, Roach and Colne Estuaries MCZ Native Oyster Fishery remain closed in 2021; and
- III. KEIFCA would endeavour to obtain new survey data in 2020/2021 to inform the November 2021 KEIFCA meeting when consideration will be given to the future management and opening of the native oyster fishery within the BCRC MCZ site

12:15 Cllr Walsh left the meeting

24. EU EXIT UPDATE (B5)

The CFO informed Members that KEFICA officers were working with their national partners through JMOCC and NIMEF to feed local knowledge and expertise into strategic and operational planning. In addition they were working with the MMO to carry out patrols at sea around the end of December and beginning of January 2021. As a result all staff would be working over this period to provide a presence and support.

Members expressed a wish that the AIFCA made it clear that the Government should be aware of the need to look after their fisheries and not to barter them away. The CFO advised that he had been in contact with Defra over the access of EU boats in the 6 to 12nm area. He was advised that the current Minister would be pushing for UK only access to these waters.

A Member advised the IFCA that there was confusion over what testing would or would not be allowed in respect of shellfish. It was possible that IFCAs could become involved in this process and would work with the Fish Health Inspectorate to receive appropriate training.

The Chairman suggested that as more information became available it would be useful to put together a guide for Members to explain what had happened and how the IFCA was responding.

Members **NOTED** the report

25. LOCAL ENGAGEMENT WITH CROUCH HARBOUR AUTHORITY (CHA) (B6)

Members were advised that officers had been speaking to CHA regarding management of fishery resources in their ownership. Officers intended to develop with CHA a clear understanding of the spatial management within the River Crouch and its creeks and to develop clear and comprehensive boundary charts. This would also include providing advice in respect of regulatory

measures such as Several Orders as well as the provision of compliance and enforcement assistance.

Members **NOTED** the report

26. ANNUAL REPORT (B7)

Members **APPROVED** the Annual report previously presented in draft form at the 16 September meeting

27. MEETING DATES (B8)

Members **APPROVED** the meeting dates for 2021/2022

28. MATTERS FOR REPORT

Members received:

- Quarterly report of the Kent IFCO (C1)
- Quarterly report of the Essex IFCA (C2)
- Quarterly report of the PV Tamesis and Vigilant (C3)
- Quarterly report of the PV Nerissa (C4)
- Quarterly report of the Sea Angling officer (C5)
- Enforcement update (C6)
- Vessel Length and Engine Power Byelaw update (C7)

Meeting ended 12:40