

**MINUTES OF THE THIRTY SEVENTH MEETING OF THE BEMBRIDGE HARBOUR
ADVISORY GROUP - 11th APRIL 2019**

In attendance: Malcolm Thorpe (MT - BHA - Chairman), Fiona Thorpe (FT - BHA), Gordon Wight (GW - BHA), Ian Thomson (IT - St Helens PC), Alan Deeming (AD - BAC), Liz White (EW - Bembridge PC), John Maher (JM - BHYC) & Mike Samuelson (MS - Bembridge RNLI & Minute Secretary).

1. **Welcome & Apologies** - apologies received from Robin Powell (BHUG), Jerry Summers (BSC), Nigel Bennett (HJ Bennett), Tim Woodcock (BBA) & Jim Robinson (Boatyards).
2. **Mike Samuelson's Award** - MT congratulated MS on his award "For Services to Sport" that he had received at the recent Isle of Wight Sports Foundation Annual Award Ceremony. MS responded by thanking MT & BSC very much for nominating him; it was all quite a humbling experience.
3. **Minutes of Previous Meeting (7th February 2018) & Matters Arising** - except for the following amendment to the first sentence of Paragraph 3c "MS sought to differentiate between BIL and BHIC which is (under the 1963 Bembridge Harbour Act) the Statutory Harbour Authority.", the minutes of the previous meeting were approved. All matters arising are covered elsewhere in the Minutes.
4. **Harbour Report by GW.**
 - a. **Safety & PMSC Compliance** - during February, March & April to date, all routine safety and PMSC compliance checks were completed and it can again be reported that all is in good order.
 - b. **PMSC External Audit** - the results of the external audit carried out by Mark Robinson (MR), Principal Surveyor/Master Mariner of Mark Robinson Marine Consultants (MRMC) were received on 5th April. They record that for the 5th successive year BHA is in an excellent state of compliance with the code, as well as with all other relevant regulations & Guidelines. MR also commented that BHA is one of the only harbours who go above and beyond in its delivery of safety compliance and congratulated all involved. Sentiments echoed by the Advisory Group.
 - c. **PMSC Compliance Certificate & Statement** - MRMC have issued a compliance certificate for the year 2019-2020. A BHA Compliance statement has been sent to the Navigation Safety Branch of the MCA as required by MIN 556.
 - d. **Channel Navigation and Safety.**
 - (1) The new tide gauge board will be fitted when feasible & safe. It will be stored ashore over the winter.
 - (2) The Channel marker servicing and re-numbering project commenced on 9th April and will continue until all have been upgraded. LNTM5/19 has been issued. AD's request for as much notice as possible in future was noted.
 - (3) Maintenance repair to some of the piles in the Marina and on the Duver Pontoon has been completed.
 - e. **Items of interest.**
 - (1) **Duver Cafe** - now has an outside sitting area and is open for business
 - (2) **BHA Alcohol Licence** - BHA now has a Licence (GW is the Personal Licence Holder and Designated Premises Supervisor) to sell alcohol from the Galley Locker. The Galley Locker sells local products where possible and will now stock local wines, bottles of local beer etc.
 - (3) **Rallies** - sixty three Rallies are currently booked in; 95% are repeat visits. This is similar to last year at this stage and it is anticipated that numbers by the end of the season will be roughly the same. Easter weekend is full and the early May Bank Holiday is filling up nicely.
 - (4) **Wi-Fi coverage** - the Wi-fi network coverage has been significantly enhanced and is proving to be very stable. Primarily provided for visitors, berth holders and the local community wanting access will be able to purchase a subscription.
 - (7) **Crime Prevention & Illegal Immigrants** - GW briefed on a number of points that had come out of a 'Harbour Masters Enforcement Conference' that he had recently attended.

These included that the Island was becoming a target for illegal immigrants, particularly on the less populated beaches of South Wight. Also that Ukranian illegal immigrants were increasingly trying to stow away on visiting yachts. Because of the D-Day celebrations in early June, the threat level remained at 'Severe'. The key message was to be aware of the 'changing' threat & remaining vigilant. Finally he provided an update on the downsizing of the Hampshire & Isle of Wight Marine Police to just RIBs; this meant that the only 'large' Police boats in the Solent belonged to the Ministry of Defence Marine Police.

d. **Staffing** - this year's team includes Sarah Salter (Senior Berthing Master - on maternity leave from end of June), Cameron Hudson (Berthing Master - due to be leaving soon to go to Camp US), Jack Miskin (Berthing Master), supported by David Tasker, Nick Moore, Mathew Smith, Tom, Harry & Charlie White (Berthing Staff), Clare Hogg, Cheryl Warne & Gill Bamber (Reception & Admin).

e. **Club Sailing Risk Assessments** - MS provided an update on the SCRA initiative for 'Safer Sailing in the Solent'. MT confirmed that he had received BSC's annual racing & training Risk Assessment and JM said he would check on BHYC's.

f. **Dredging** - MT advised that:

(1) NB had almost completed the shore-based dredging of Attrill's Point. The main area of effort had been between Nos 11 & 13 buoys. Although it would have been nice to have taken out more, the work has widened the channel significantly and improved the visibility between Nos 11 & 13 buoys. Disposal of the dredged sand above MHWS has not caused any problems.

(2) After continual difficulties with agreeing dates with ML Dredging for dredging the Marina, BHYC's Deep Water Pontoon and the BOD Pool, the decision had been made to open discussions elsewhere. New dates will be announced as soon as they have been agreed. BSC & BHYC are already aware of this and Berth Holders will be advised in the near future.

g. **Gordon Wight** - IT wished it to be recorded on behalf of BHAG as to Gordon Wight's huge and never ending commitment and involvement within the Harbour.

5. **Events Update**. FT advised that:

a. **Duver Dash - Sunday 26th May** - planning going well. Any added publicity would be welcome. Also a request for people to act as Course Marshalls. Bembridge RNLI are not able to provide the ILB off Priory Bay (unless of course there was an emergency).

b. **Rock the Boat - Saturday 22nd June (17:00 - 23:00)** - music from the 60s and 70s; music by **The Mechanix** and **The Accelerators**. The Poster is based on one from Radio Caroline.

c. **Bembridge Harbour Family Fun Weekend - 2nd to 4th August** - all coming together. As it had now been confirmed that Dance on the Duver was not being run this year, a smaller scale 'Harbour Party' was being organised. Music initially with a DJ and **The Accelerators**. Fireworks (fired from the usual location) had been booked. Subject to operational priorities, RNLB Alfred Albert Williams (Tamar All-Weather Lifeboat 16-17) will be open to visitors; Alan Doe will also be providing coastal safety advice. The Great Bembridge Paper Boat Race is confirmed for Saturday 3rd August. Despite best efforts, it had not been possible to meet with Jay Chapman about a raft race, but it will be pursued for 2020.

d. **Harbour Ball - Saturday 21st September** - a charity fundraising ball to be held at BHYC, with live music and a fundraising Auction and Raffle in support of The Sophie Rolf Trust – KissyPuppy.

e. **GW Charity Event - Saturday 13th July** - although not a BHA event, GW took the opportunity to draw attention to a 'Caribbean' themed event he was organising at BHYC to raise money for the 'Make a Wish' Charity. He also mentioned that he was running in the London Marathon on Sun 28th April for the same Charity.

6. **Berths Available** - MT advised that the following berths were still available: Marina (1), Fisherman's Pontoon (4), Selwyn Pontoon (2) and mid-harbour moorings (2). All mid-harbour pontoons were now full.

7. Members Reports.

a. **Bembridge PC (EW)** - Beach cleans had started and were certainly improving the environment and helping towards Bembridge becoming a Plastics Free Community. FT thanked BHUG for clearing the dead Sea Buckthorn on Bembridge Point and burning it. Following considerable discussion on the continuing unresolved problem of 'Dog Poo' being disposed of by the public in the litter bins on Point Beach, EW agreed to raise it again with the PC. IT pointed out that the BIFFA policy now allowed 'small amounts' of 'Dog Poo' to be disposed of as General Waste. Finally FT mentioned her 'string bag' initiative designed to encourage visitors to pick up litter when they were out walking.

b. **BAC (AD)** - nothing of significance. AD drew attention to the new cable that is being laid across the Channel. GW agreed to follow-up with the owner of "Wight Shark" the theft of some fuel.

c. **St Helens PC (IT)** - the Public Toilets on the Duver had been refurbished; larger waste bins were also in place. Plans were being finalised for the installation of an AED.

d. **BHA (FT)** - Bembridge Breeze was with the Printers so will be available before Easter. Local distribution to all households in Bembridge & St Helens is carried out (at considerable expense) by an Island based firm and there had been some complaints in the past that some copies had been damaged/torn. Any feed back would be welcome.

e. **BHYC (JM)** - although in the event the showers in the Marina were not used while the Clubs Changing Rooms were being refurbished, BHYC were grateful for BHA's kind offer to use them. The Ice Breaker series had been very well supported and liason with harbour staff had been very helpful. The Club's Open Day, linked to the RYA's 'Push the Boat Out' is on 4th May. Subject to higher priority operational tasking, Bembridge RNLI's All-Weather Lifeboat will be alongside from c10:00 to 12:00. The day would include Taster Sessions to which visitors were very welcome to join in. JM agreed to forward a Poster to FT as soon as one was available.

f. **Bembridge RNLI (MS)**

(1) Sadly John Margetson, who had been involved in Bembridge RNLI and the Isle of Wight Lifeboat Board over many years, died recently.

(2) Four shouts since the last meeting (8th Feb - ALB drifting yacht; 4th Mar - ALB medivac; 20th Mar - ILB motor boat aground; 24th Mar - ALB medivac).

(3) There is now an AED (funded locally) located outside the RNLI Shop at Lane End.

(4) Unfortunately the IWC had apparently turned down the temporary 'Mobile' catering facility (in lieu of the Lifeboat View Cafe) on Sibyl Snelling's land to the east of the Car Park.

g. **BHUG** - in response to the report from RP at Annex A that MS read out, MT said that:

(1) It was the first time he was aware of some of the information in the report and he was surprised and somewhat annoyed that it appeared to be blaming him as the culprit for the impasse. He had discussed at length with his Bank many of the options mentioned who had advised that he would be committing commercial suicide if he agreed to them. MT stated he would issue a response to RP's report when he had considered it further [*Afternote: see Annex B*].

(2) Although MT did not agree with BHUG's logic as the professional advice he had received was that the results would not be nearly so beneficial as projected; however he remained supportive of the BHUG initiative.

8. Any Other Business.

a. **Entrance Channel CCTV** - MT confirmed that this was now working.

b. **RSPB Closure of the Footpath from the Houseboat Car Park to the Old Railway Line** - EW agreed to meet and discuss with MT.

- c. **Extension of the Railway Line Footpath to the South of Bembridge Boatyard, BMS etc** - MT advised that he had recently met with the Ramblers Association who were keen to explore the possibility of making use of the small strip of land owned by BIL to extend the footpath eastwards.
- d. **Sluice Gates** - MS advised that the planned meeting with Ian Tripp (EA) to follow-up on his letter of 27th November 2018 had still to take place.
- e. **Harbour Poster in French** - FT showed a copy of the Harbour Poster that had been produced in French for promotional purposes.

The meeting ended at 11:40

10. **Next Meeting** - 09:30 on Thursday 27th June at the Harbour Office.

Annex:

- A. Bembridge Groyne Project Report by Robin Powell.
- B. The Chairman's Response to Annex A.

BEMBRIDGE GROYNE PROJECT REPORT BY ROBIN POWELL

I am sorry to say it now looks most unlikely that our groyne project will continue unless we can solve the location of funds problem.

We have spent a lot of time trying to find a way of meeting Malcolm's fully understandable requirement that we should hand over to him whatever funds we are able to raise before he will sign a contract with a building contractor. He says that this is a normal procedure in such transactions and has received advice to this effect. We have sought the views of a number of professional people none of whom consider this "normal procedure" and believe that it would be a very unwise move to allow it to happen. Funds handed over to BHIC would become an asset and available to creditors should a winding up occur.

To try and resolve this dilemma we offered Malcolm a directorship of Bemgroyne with Robin so that neither BHIC nor BHUG could use such funds without the agreement of the other. This was declined on the grounds that Handelsbanken have apparently said they would not accept that as it would cause a conflict of interest.

After more thinking time it was decided that BHUG should write to Handelsbanken offering to move the Bemgroyne account to them and saying that Malcolm would be invited to become the second signatory to that account. This again would mean that neither BHUG nor BHIC could access the funds without the agreement of the other; it would also mean the Bank could see what funds were available. A draft of this letter was sent to Malcolm last Friday but was rejected on Monday after he had advised the Bank that if they were approached by BHUG he would not agree to this proposal. This rebuttal has of course meant that the letter has become pointless. We believe the Bank would have appreciated the steps we wanted to take and may well have accepted our proposal. We understand the bank is thought to be very sensible and reasonable and is the fastest growing bank in the UK.

Michael MacInnes has been having conversations in the City about suggestions for a formal guarantee from Bemgroyne which he has been told is often a normal process in such transactions. This would cover payment on certification of contractor's invoices by Rosebay. Malcolm has also turned this down saying he is not happy with the substance of Bemgroyne and asks how he can trust Bemgroyne to pay on time. This is the purpose of a guarantee.

Michael is now investigating using an Escrow agent recommended by specialist London lawyers and he visited a London firm on yesterday afternoon (Wednesday April 10). They are part of a massive US financial management / wealth group with over US\$120 billion of assets and US\$15.5 billion of shareholders equity which should be enough for anyone! They have an escrow department that has handled hundreds of escrow accounts for all manner of transactions. Escrow accounts are used when the two sides of a transaction do not trust each other. Subject to KYC (Know Your Customer), which it is hoped will not be a problem, they are prepared to provide an escrow account for our transaction for a fee of £4,500. Michael will run through the mechanics of this with BHUG and Malcolm to see if this can be treated in a positive way and that agreement can be reached.

There is some good news in that good progress has been made by Alastair Tindle of Rosebay who has been working with the contractors to make some design alterations resulting in a significant cost reduction from their original quotes.

Lastly we submit that to waste all the time and effort that has been put in to such an important Harbour benefit where we are so near a conclusion would be a terrible shame.

Response to Robin Powell's BHUG Report issued 11/04/2019

BHUG has promoted an initiative to refurbish the Bembridge groyne by raising funds to be channelled through BHA to enable the works to be carried out. By this means BHA can use its permitted development rights as well as being able to negate the VAT liability [circa £50,000] for BHUG.

However this means that BHA will have to commit to signing a building contract with a cost of £250,000 > £300,000 plus VAT and needs full assurance that all such money [less a sum from the Harbour] is available on demand to pay for all such costs.

BHUG has justified its reasoning for this initiative by referring to various reports on sediment and silt, of which not all are professionally written. BHA has been advised since the 1990's by Dr Paul Tosswell of Lymington Technical Services who is a recognised specialist in the subject and has written various papers and reports for the Harbour.

Having received copies of such reports, it is disappointing to note that BHUG have declined to recognise and acknowledge his two main reports of June 2014 and July 2016. To quote from them:

June 2014: "In reality the groyne is no longer effective as sediment control structure because it has been surrounded by sand forming the spit [a significantly larger structure]. However its use as a flow training wall may be of potential importance".

"The Isle of Wight Shoreline Management Plan 2010 suggests that the spit is now naturally stable and that the groyne serves no direct sediment transport function".

"The 2010 Planning for the Future [EA, IOWCC] recommends that the groyne not be repaired but recommends monitoring of the coastal processes".

July 2016: "Reinstatement of the groyne to control sediment movement along the beach is considered unnecessary".

"The surveys support the view of the 2014 assessment in that reinstating the groyne for beach sediment control is unnecessary. The system is now in stability and any reinstatement will affect a change to the system".

Bemgroyne.

For me to accept a directorship in Bemgroyne is an obvious conflict of interest as the sole provider of funds for this initiative to BHA.

A 'third party limit guarantor' has recently been mentioned by Michael MacInnes with no further details. No other form of guarantee has been made to secure the payment of funds to BHA and with no assets or other funds as its disposal, no security or guarantee from Bemgroyne is fundamentally sustainable.

Robin Powell's paper mentions a meeting between Michael MacInnes with a lawyer specialising in escrow accounts last week; as yet no further details have been provided for consideration, however Michael MacInnes has previously advised they are not to be recommended.

I have discussed the whole subject with BHA's bank who is not in favour of any of the proposals suggested to date, and referred to them as 'commercial suicide' should they be accepted.

I have also confirmed that BHA will provide an undertaking that all such funds received from Bemgroyne will solely be used for the refurbishment of the groyne.

The subject of VAT is very sensitive and although in general has been agreed with HMRC, still requires final ratification and agreement.

Groyne Design:

Requests have been made to the designer since September 2018 for a drawing to be supplied to show vehicular access from Nigel Bennetts' yard to both sides of the groyne; as yet the drawing has not materialised.

The lack of this drawing also questions the extent the contractors' estimates have taken such work into account for tendering purposes.

I am given to understand that there has recently been a redesign and a change in specification that will reduce the construction costs; to date I have not been provided with any such information.

Summary:

I have stated very clearly from the outset that whilst the advice BHA has received does not support BHUG's initiative yet I have continued to support the same as a local community campaign.

It is a totally unreasonable expectation for BHA to commit to a substantial contract for and on behalf of BHUG without prior receipt of full payment with if necessary a sustainable guarantee.

Based on the information that I have received so far from Michael MacInnes and Robin Powell as regards the use of an escrow account, I have made my views very clear for several months now: for BHA to sign a building contract for the sum of £250/300,000 plus vat, all such money [less a contribution from the Harbour] has to be totally under the control of BHA with no constraints from any third party at all.

It would be a great shame for this project not to proceed; we remain fully committed to the initiative and its future.

Malcolm Thorpe

Bembridge Harbour Authority.

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