

**HAMPSHIRE COUNTY COUNCIL**

**Report**

<b>Committee</b>	River Hamble Harbour Management Committee
<b>Date:</b>	25 June 2010
<b>Title:</b>	Annual Forum – Report of Proceedings
<b>Reference:</b>	1666
<b>Report From:</b>	Director of Culture, Communities and Rural Affairs

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**1. Summary**

- 1.1. The purpose of this paper is to report on the proceedings of the River Hamble Annual Forum, held at Victory Hall, Warsash on 16 March 2010.

**2. Background**

- 2.1. The fifth River Hamble Annual Forum was held on Tuesday 16 March 2010 at the Victory Hall, Warsash, chaired by Councillor S D T Woodward. Twenty nine members of the public were present, together with a number of members of the Management Committee, Harbour Board and Harbour Office staff.
- 2.2. A full report of the proceedings is at Appendix 1. Two formal deputations were made, one by Mr Colin Brookes, Chairman, River Hamble Mooring Holders Association and one by Mr Jeremy Clark, Chairman of the Solent Protection Society. Comments on the issues raised are included in italics (to be provided later).

**3. Recommendation**

**It is recommended that the River Hamble Harbour Management Committee notes this report.**

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	no
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	no
Corporate Improvement plan link number (if appropriate):	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

DocumentLocation

None

## **Report of proceedings of River Hamble Annual Forum 2010**

Councillor S D T Woodward opened the meeting at 1930.

**Apologies.** Apologies were received from John Strickland, Peggy Dorothy, John Tickle and Wendy Stowe.

**Annual Report.** The Marine Director delivered his Annual Report for the year, which has been posted on the Harbour Authority website.

**Presentation.** Representatives of the Solent Forum gave a presentation on the Solent Marine Planning (SoMaP) project <http://www.solentforum.org/forum/SoMaP/>

**Report of the River Hamble Select Committee.** The Chairman then invited comments on the report of the River Hamble Select Committee, which were as follows:

Jeremy Clark. Asked why the Select Committee report did not make any mention of the potential environmental consequences of a review of the capacity of the harbour, and asked whether the review would be considered as a Habitats Regulations 'plan or project'. Cllr Woodward replied that the intention was to investigate and consult on the capacity issue at this stage. In response, Mr Clark highlighted that the recommendation was to 'seek to remove or modify'.

Don Alexander asked why Harbour Board members needed training – they should already be fit for the role when they are appointed. Cllr Woodward replied that the independent members should, indeed, require minimal training (although it was unlikely that any appointee would know everything about the harbour), but that there were no pre-requisites for the County Councillor members of the Board, who may therefore require significant training.

Mike Wren asked whether any thought had been given to a reciprocal arrangement with other harbours for the payment of Harbour Dues. He suggested that, for example, a yacht which had paid Hamble Harbour Dues could be exempt when it visited Chichester Harbour, and vice-versa. Mr Wren understood that a similar arrangement already existed between Langstone and Chichester Harbours. The Marine Director replied that he could see dangers with such an arrangement but undertook to investigate the details of the arrangement between Chichester and Langstone. {Post meeting note – there is an informal reciprocal arrangement between Chichester and Langstone, but it is for pragmatic reasons only because some vessels which are moored at the northern end of Chichester Harbour can only get access to the sea via Langstone}.

Jon Spencer had heard that charging Harbour Dues for dinghies was illegal and questioned why this was never raised or challenged by the Select Committee. This being the case, what is the legal basis is the zero-rate of Harbour Dues for dinghies etc. Cllr Woodward answered that this issue had not been addressed because it

was pragmatic not to. He added that charges are looked at on an annual basis and would be the subject of consultation if changes are proposed for the future.

Mr Spencer went on to ask if dinghies would continue to receive practical support (particularly for racing) from the Harbour Authority in the future, if they are no longer contributing to the costs of providing that support. The Marine Director said that the practice of providing two patrol boats to assist with traffic management on Wednesday evenings in the early and late parts of the season would cease because the cost of the overtime involved would be prohibitive. He added that patrol support could be provided during the high season, but this would only happen where the safety situation required it.

A number of questions concerning the review of the Code of Practice and risk assessment for dinghy racing were raised. The Marine Director assured the audience that the consultation would continue until consensus could be reached regarding a practical way forward.

**Deputations.** Two formal deputations were made:

Mr Colin Brookes spoke as follows:

My name is Colin Brookes – I am the Chairman of the Mooring Holders Association and a member of Warsash Sailing Club and I also represent my own views.

I would like to start off by thanking the Chairman Cllr Woodward for his chairmanship of the Select Committee, of which I was a member. I believe we achieved a good compromise on behalf of the various interests and thus avoid the need for a Public Enquiry.

Harbour Dues for sailing dinghies is not of direct concern for mid River Mooring Holders but those I have spoken to do not see a need for them to pay. At less than one per cent of Harbour Dues revenue they were of little relevance and clearly unfair in view of the previous exclusion of rowing boats and canoes.

The other matters in the report are I believe good for the River, particularly more political control and a tighter control of costs. I also commend the report of the Sub Committee of Cllr Trevor Cartwright, David Jobson and Rupert Bossier.

On behalf of Mid Stream Mooring Holders I will continue to press for a fair share of any new moorings or berths or any increase in the size of moorings that can be squeezed into this crowded River. So long as they do not harm the Navigation Rights of all craft, including tenders, or interfere with the enjoyment of the River for all. I will take a moment to quote from the August 2006 decision of the inspector in the appeal of HYS against their planning application that was lost.

“The River is a parochial monument of a sort it seems to me. Both its physical self and its history of human use and interaction are freely accessible to anyone who cares to take to a craft, however small and inexpensive, to travel on it. Its openness to communal use is a part of its distinctiveness and character, in contrast to almost

all land, save for roads and footpaths, which is privately owned and therefore excludes people. Being an open River is what makes it unique and different. If this area of open water and others like it are obstructed then it would change the experience of using the River. Clearly this is a substantial benefit, this human recreational experience.....”

Others may speak on environmental issues but on planning applications there is a real need for honesty about the impact and consistency in treatment. Small schemes cause less harm than large ones. I would also like to plead for Health & Safety to be used sparingly and never to restrict enjoyment of our River.

Now for my hobby horse – some three years ago there was a financial sleight of hand that transferred nearly a quarter of a million pounds of reserves into an asset enhancement reserve – a delightfully woolly title – at the time 63% of River funds which in my view should be part of the asset replacement fund. I have particular issue with the transfer of £50,000 to this reserve since the last Forum, and therefore during the recession, from the general fund to the ill defined reserve. Others will also be watching how this part of our money is spent – Select Committee 9d.

*The transfer was formally approved by the Harbour Board at a meeting held in public.*

Just a little side issue; in the recent revisions to the budgets for 2009-10, is the estimate of interest on reserves at just 0.235% which looks low even on present rates – we are supposed to get the Hampshire County Council average – that is why we do not have a dedicated bank account\*. Also I note the estimate for Harbour Dues is down by £35,300 on the original budget and 3.25% down on 2008-09 actual.

*The rate of interest paid on reserves etc. reflects the marginal rate of interest which the County Council's deposits earn, and this is inevitably low with a base rate at 0.5%.*

Having attacked the Asset Enhancement Reserve I do not think it is hypocritical to say that if this reserve is to stand then those of us who contributed to it should have a big say in how it is spent. My list is not complete and I am very aware that we should only include items legally allowable.

1. Additional tender storage ashore and afloat at Hamble, Warsash and Swanwick.
2. As leverage to help Fareham Borough Council to get Warsash hard repaired, particularly down to low water – an historic hard in poor repair.
3. Provide a new maintenance grid by Hamble Quay similar to that at Bosham.

My committee and I are always available to help advise the Authority on how to spend our money.

*This is dealt with in a separate report. Additional ideas and proposals are still welcome.*

\*Has a change in basis been made since 2006-07? If so are the elected members aware?

Mr Jeremy Clark spoke as follows:

My name is Jeremy Clark. I have a mooring on the River. I am on the Committee of the River Hamble Mooring Holders Association and I am Chairman of the Council of the Solent Protection Society. Perhaps because I live on the banks of the River I have a particular interest in the natural environment of the River.

I attended a recent meeting of the River Hamble Management Committee as an observer and listened to an interesting talk by the Assistant Harbour Master (Environment) on the various pieces of legislation concerning the environment of the Hamble and hence the personal responsibilities of the members of the Board and the Management Committee. I am also aware of the importance that the Dept of Transport places through the Municipal Ports Review and the Port Marine Safety Code on the training of those responsible for Rivers and Harbours and in particular those without a marine background.

The talk raised many questions. The first is that in the many years that I and friends, have been observing Board or Management Committee Meetings we have no recollection of hearing a full report to the River Authority on the state of the various protected areas and the changes that have occurred say, in the past year.

I do not understand how the Authority can discharge its duties under the habitats Regulations etc if the Officers do not present detailed reports on such matters

The next problem is that I do not understand how you know what areas you are responsible for. This is a very complicated subject. There are SSSI's, SAC's SINC's, LNR etc but there does not appear to be a definitive map available on the web site available to the public and presumably of members of your committee, detailing the various parcels of land adjacent to the Hamble, their designation and details of those that are the responsibility of the Harbour Authority

In general I believe that the responsibility of the Harbour Authority only goes up to the mean high water line and so I would presume that you have little responsibility for what happens on dry land or indeed any powers to spend money there

There are many paragraphs on the Harbour Website about definitions and the fact that designated areas exist, but no way for the public or members of the Committees to tell where the responsibilities lie. It may be unreasonably difficult and not cost effective to put it on the website but I would hope that a map could be available from the Harbour Office with a mention of this on the website

Why does it matter?

Well some of the designated areas may be the responsibility of the River Authority and some may not. I have the unworthy thought that the areas are so blurred that the Assistant Harbour Master (Environment) may well be spending her time considering matters that are not in any way the responsibility of the Harbour Authority but should be more properly be the responsibility of the Environmental, or Recreational Departments of Hampshire County Council.

Wearing my hat as someone who pays harbour dues, I do not want to make a second contribution to something that I have already paid for through my substantial Council Tax or through Income Tax

If I may address the matter of the salt marshes on the Hamble, and I am aware as I have said that they may not be the responsibility of the River Authority.

I believe the salt marshes beside the Hamble are eroding. This is a Solent wide problem not just a Hamble problem, but I do not believe that the members of the Authority have considered the problem, as they should

If on one hand mud is disappearing from the SSSI and on the other hand, mud is appearing in the Marinas and needs periodic dredging, is there a connection? Where does the mud come from? Every ten years or so you give permission for thousands of tons of good Hamble mud to be dredged and hence thrown away out at the Nab

Where does it come from? It does not come down the River as agricultural run off. The Hamble is just too short. Some will come from Southampton Water, although we are told that the major Southampton dredge will have little impact, but does some of it come from the marshes?

You may be aware that the DEFRA dredging protocol talks about the beneficial use of spoil. I would guess that many members of both Committees have never heard of the dredging protocol or beneficial use, let alone considered it in the context of the permissions which the Authority give for maintenance dredging. I have certainly never heard a question asked about it. If, of course decisions are taken at an executive level then firstly is there a Board resolution to delegate such powers and secondly should there not be periodic reports to the Committees?

The Marine Director has assured me it is the responsibility of the Marine and Fisheries Agency or their successor, to consider this matter in any specific application, but that does not square with the statements on Alison's presentation nor I believe absolve the Harbour Authority from its overall strategic responsibility.

The Salt marshes of the Hamble are a precious heritage. They must be guarded. It is not just a question of the current neglect but any move to increase boat numbers

on the River with their attendant wash must immediately raise the concerns of the environmentally aware who are users of the River or walk beside it. Larger vessels travelling even at the maximum of 6 kts have a considerable effect on the River

Mr Chairman

It is long overdue that the two Committees are given the opportunity to take their environmental responsibilities more seriously and Alison's talk was an excellent step forward

It is important that users and the public in general are made aware of where responsibilities lie and what the problems are and where the solutions lie.

It would be premature to consider spending any money at all from the Asset Enhancement Reserve until a thorough audit of the Authorities environmental responsibilities has been carried out.

Mr Chairman, I look forward to reading the necessary reports and listening to the discussion at your future Committee meetings. Thank You.

Response to Mr. Clarke

Mr Clark's presentation covers a range of complex issues and raises three main points which are addressed below.

*Status of Designated Sites:*

Official monitoring and reporting on the status of designated sites is undertaken by Natural England (NE). The results (as well as required actions and responsible bodies) are available to both public and professionals on [www.natureonthemap.org.uk](http://www.natureonthemap.org.uk) In addition, the Assistant Harbour Master (Environment) (AHM(E)) sits on the management group of the Solent European Marine Sites. Where the condition of designated sites is deteriorating, NE have responsibility to identify the management actions required and associated lead body (which is not necessarily the land owner/leasee). If the River Hamble Harbour Authority (RHHA) was required to undertake a new action as a result of one or more of our functions impacting on the condition of site then this would be reported to the Harbour Board and Management Committee. However, to avoid getting to that stage, part of the wide remit of the AHM(E) is to ensure that professional consultation and appropriate mitigation measures are taken into consideration (by the Harbour Board, Management Committee or on delegated matters) prior to decision making on aspects of our functions that may impact on a site. A current example includes the working group to be set up to advise on the implications of a potential review of boat capacity.

*Areas of Responsibility:*

Maps detailing various site designation boundaries are available on numerous websites available to the public e.g. [www.magic.gov.uk](http://www.magic.gov.uk)  
<http://www.natureonthemap.org.uk>  
<http://www3.hants.gov.uk/hambleestuarypartnership.htm> As a result of Mr Clark's request, a link to the latter two is now provided on RHHA's website. A copy of

RHHA's Crown Estate lease boundary is held in the Harbour Office and is available for public inspection by appointment. Harbour Board members have maps of all designated sites provided in their training manual, and the Management Committee most recently received a copy appended to the AHM(E) presentation in March. In addition to this, applications for harbour works consent have the boundaries of designated sites marked on them and the accompanying report details site designations and associated responsibilities. The jurisdiction of RHHA is up to Mean High Water, however any activity that happens outside RHHA jurisdiction but has the potential to impact within it (safety or environment) is also of interest to RHHA.

*Saltmarsh:*

Saltmarshes throughout the UK are under threat from 'coastal squeeze' (where a hard defence behind them prevents retreat) and from 'natural change' (where no defence exists). The Environment Agency have been given the target to offset the loss of saltmarsh for the whole Solent from coastal squeeze through the Regional Habitat Creation Programme. This means that throughout the region there will be no net loss, but it does not mean that lost saltmarsh will be replaced in the exact same location. If no hard defence exists then the loss is seen by the government as natural change. Current status of Hamble SSSIs is either 'favourable' or 'unfavourable recovering'. The key prevention of favourable status is the algae mats caused by excess nutrient levels. This is being addressed through Environment Agency's discharge consents and the South Downs & Harbours Clean Water Partnership Delivery Strategy.

RHHA pays particular attention to dredging as we license this activity along with the Marine Management Organisation (MMO) (which, unlike RHHA, also licenses the deposit of dredged material). Maintenance dredging is an ongoing activity and its licensing has been formally delegated to officers by the Harbour Board. Capital dredging applications are brought to the committees. Updates on the status on the Maintenance Dredging Protocol (MDP) have been provided at various committee meetings in the last few years. The Baseline Document required by the MDP is currently being revised and updated for use by operators in applying for their future licenses. As yet, only one harbour in the UK has submitted this document to the MMO, so RHHA is far better prepared than most. The Baseline Document delivers the requirements of the Maintenance Dredging Protocol, which in turn ensures compliance with Habitat Regulations.

Professional and academic opinion is that the silt feed comes into the Hamble from Southampton Water, and thus significant efforts are being made by RHHA to secure agreements with ABP to ensure that the Hamble is not adversely affected by the proposed Southampton Water Capital Dredge.

Material claimed from maintenance dredging is usually unsuitable for re-use due to the unconsolidated nature of the silt. Opportunities and suitability for re-use are assessed through the MMO license, the Hamble's Baseline Document, and current academic research at Southampton University commissioned by the Environment Agency. This is a complex area that requires further work and authorities are working together to increase understanding and appropriate action.

Harbour Board members have received training on various aspects of harbour management which includes environmental aspects. Members of both Board and Management Committee are offered opportunities outside of meetings to further their understanding of the estuary and its environs. Each new member is also invited to the Harbour Office to meet staff and receive briefings on any required topics.

In summary, Mr Clark's observation that the subject of environmental designations and associated responsibilities is a complex one is correct, however, to advise on decisions and ensure the legislative requirements are met, the Harbour Board has an independent environmental expert, and the AHM(E) attends Harbour Board and Management Committee meetings, as well as being available at all times to clarify any points regarding environmental duties and to provide the required information for decision making. If Mr Clark would like to gain further understanding of environmental responsibilities and the designated sites he should contact officers from the various appropriate bodies, including RHHA's AHM(E).

In the subsequent question and answer session, the following issues were raised:

John Mitchell asked about the reported incident between a yacht under power and a fleet of Foxer dinghies in the main channel. He stressed that this was an important Collision Regulations matter. {Post meeting note – the Chairman of the Harbour Board subsequently sought advice from the independent Designated Person for the Harbour (Captain Mark Capon) on the interpretation of the Collision Regulations in the instance. His report will be considered separately}.

Graham Brown asked about replacement of the Harbour Master. Cllr Evans replied that recruitment would take place within the next month.

The meeting concluded with an opportunity for attendees to comment on ideas for the Asset Enhancement Reserve, the results of which are reported separately