

## **Study: River Works Licences for Residential Use**

### **MINUTES of Steering Group meeting 6, 21<sup>st</sup> February 2011**

PRESENT: From Madge Bailey Associates:  
Madge Bailey, Independent Consultant (MB)

From DVS:  
Richard Whitehill, Independent Consultant (RW)

From PLA:  
Brian Chapman, Chief Financial Officer (BC)  
John Ball, Head of Property (JB)  
Doug Kempster, Corporate Communications Manager (DK)

From OPLAC:  
David Beaumont, Chair of OPLAC (DB)  
Peter Banks (PB)  
Moirra Allan (MA)

From RBOA:  
Rex Walden, Chairman of RBOA (RexW)

This meeting of the Steering Group followed the conference with Counsel, Robin Purchas, which took place at his Chambers in the morning of 21/02/2011. Joanne Dowson and Reg Morton, the legal representatives who have been advising the Steering Group in the preparation of the brief for Counsel, attended the conference and, as their work on the brief is at an end, they will be taking no further part in the Steering Group.

An Agenda had previously been circulated by MB. RW ruled that the meeting would start from Item 3 and that Items 1 and 2, *Minutes of the last meeting* and *Matters arising*, would be discussed if time allowed.

#### **Agenda Item 3: Verbal report back from MB on her research on the Medway Ports**

MB reported on her discussions with the Medway Ports Estate Manager. Her findings were discussed briefly and will be incorporated into Papers 1A and 1B. After PB raised the issue MB agreed to also consult "The River Medway Business Users Association" for fees and also to check whether her existing Medway figures were for berths or for the total area including channels

#### **Agenda Item 4: Paper 4 – additional section re "Value" on page 6**

An additional page to Paper 4 relating to the various elements that may constitute the "value" of a residential mooring with a River Works Licence had been raised by MB, discussed and that it should be added to the brief for Counsel at the last Steering Group meeting on 13/01/2011. MB had added this page to her Paper 4. Paper 4 had been emailed as an attachment to

Steering Group members on three occasions since the last meeting (13/01/11), as part of the process of preparing the brief.

### **Agenda Item 5: Research Papers 3A and 3B, River works licensing and charging history from PLA and licensee perspectives**

Discussion of this item had been carried over from the last meeting. MB explained that she had wanted to understand how some licencees current animosity had come about. She had investigated PLA past practice and had interviewed the PLA's current and previous agents. In the past, the PLA had not reviewed RWL fees regularly, instead there had been an annual increase based on the RPI and occasional reviews "from time to time." MB said an expectation had grown up among houseboaters that the practice of RPI increases only would and should continue into the future. The more recent practice of regular reviews, resulting in large increases in fees and the prospect of arbitration had generated great resentment and resistance; hence the need for this current review, one of whose aims is to remove uncertainty. It was recognised that people living on the river needed predictability in how the RWL fee would be calculated, and that potential buyers of houseboats could not obtain finance for something with an indeterminate cost. This issue had been one mentioned by Robin Purchas that morning.

PB said that fees were reviewed regularly in that they were reviewed by RPI which maintains the monetary value of the initial licence fee agreed. PB said what he was objecting to was changing the rules halfway through the licence. MB continued:

DB felt that, as they stood, Papers 3A and 3B were one-sided, in that they described the PLA's position. MB referred the SG to paragraph 11 in Paper 3A which did specifically put across the perspective of the licensees in the paper.

DB referred the SG to the results of MB's research on the houseboater side of the issue that had been presented to the Steering Group in the form of PowerPoint slides. Steering Group members had received a paper copy of the slides, but DB believed that the slides should be reworked into a numbered research paper in order to give equal weighting to both sides of the RW licensing issue. MB explained that Paper 3A was a historical summary of how we had arrived at the stage where the review commenced. She AGREED to rework her PowerPoint slides as a numbered research paper in the same format as Papers 3A and 3B.

### **Agenda Item 6: Paper 2, Criteria for assessing the various charging options identified**

MB invited comments from the Steering Group on this paper, which will be the criteria used to assess the options for the charging methodology.

#### **1. Simple and clear**

Wording AGREED with the deletion of the first three words.

#### **2. Reliable**

The meeting recognised that it was impossible to predict what market indicators would be

in the future. Although the exact figure could not be predicted, the methodology which the Steering Group would devise would make it clear how the figure would be arrived at. Wording AGREED with the removal of the words "current and future".

3. **Fair**

Wording AGREED with the removal of the two quotations.

4. **Transparent**

Wording AGREED.

5. **Supported**

Wording AGREED.

6. **Cost effective to administer**

Wording AGREED with the removal of the descriptor, to leave heading only.

7. **Lasting**

Various time intervals were suggested in considering the need for future reviews of the RWL charging system. In response to a question from JB on BW practice, MB explained that it was similar to the present Steering Group practice, in that it involved the two sides of the issue in discussion, with reviews were usually triggered by problems being identified by either party, rather than a fixed review period. She suggested a short bedding-in period of 1 or 2 years in order to assess how the charging methodology was working with new licensees and the need for further review. Wording AGREED with the removal of the descriptor, to leave heading only.

### **Agenda Item 7 and 8: Review of progress to date and the research stage**

MB presented a paper which she had prepared, summarising progress so far. Under *Looking ahead*, she stated that her reason for suggesting both a "long list" and a "short list" was that she felt it was important to acknowledge all the suggestions for charging options which she had received. She wanted to let people know that their suggestions had been considered and answered. Under *Prepare Final Report*, MB informed the meeting that she will prepare a draft Report for the Steering Group. The summary paper was AGREED by the meeting.

### **Next meeting of the Steering Group**

MB handed round a revised timeline. The next meeting of the Steering Group is scheduled for Thursday, 5<sup>th</sup> May 2011 (the 1<sup>st</sup> April meeting was cancelled). In response to a question from DB, RW stated that the Steering Group will not require an additional meeting to discuss Robin Purchas's draft opinion.

### **Public consultation on MB's Final Report**

The initial period which had been allowed for the public consultation on MB's Report was 12 weeks. MB queried whether this time period could be shortened to 6 weeks. From her meetings with houseboaters, she felt that there was a demand for the process to proceed quickly, and she believed that 6 weeks at this stage would be adequate since licensees had already been engaged to a certain extent thus far. JB proposed that a communication should be sent out to

alert houseboaters in advance of the public consultation. RW pointed out that the QC's opinion would be sent out when it was received, and MB proposed to include advance information about the public consultation at the same time. DB was concerned to ensure that everyone who wanted to respond to the public consultation had time to do so, and a time of 8 weeks was AGREED.

MB suggested that the public consultation could also ask licensees to elect in or out of having their licence fee published in the public domain.

### **Draft QC's opinion**

DB stated that Robin Purchas had said this morning that he was going to issue a draft opinion on which he was openly asking us for comments, and that there might be things which he would want to ask Mr Purchas to reconsider or take on board. DB had been impressed by Mr Purchas at the conference by his readiness to seek opinions and accept feedback. RW said that Mr Purchas was asking for comments as to whether he had understood the questions correctly and whether his reasoning was clear.

MB asked for clarification as to how the process of feedback to the QC would be handled. RW stated that he would receive the QC's opinion, and pass it on to the Steering Group for comment. Members of the Steering Group would channel their responses to the draft opinion through the Chair as before. RW will respond to the QC on behalf of the Steering Group. MB suggested that responses to the opinion should be in the form of comment boxes, and not tracked changes.

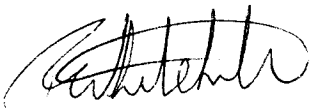
### **Responses to public consultation**

DB queried whether the Steering Group would see the responses to the public consultation as they came in. MB asked the PLA how they wanted to run the public consultation. JB replied that RW and MB should coordinate responses. RW stated that he would schedule them in the form of a spreadsheet, as he had done for responses to the QC's brief. DB said it would be helpful if RW could send the spreadsheet round as and when new comments were added. RW said he would try to do that having regard to there not being too many draft schedules passing around. MB suggested that, when the Final Report goes out for consultation, a response form with optional questions should be sent out with it which might be easier for people to respond to, and could encourage more responses. The PLA did not favour a public meeting as part of the public consultation, but a launch meeting to publicise the new system was a possibility. A public meeting to publicise the start of the consultation was also suggested. MB suggested that the idea of a public meeting could be revisited later.

### **Agenda Items 1 and 2: Minutes of last meeting and Matters arising**

RW offered the choice of discussing these items or dealing with them by email. Given the length and intensity of the day's work, the feeling of the meeting was for email.

*Next meeting: Thursday, 5<sup>th</sup> May 2011, 09:30, Bakers' Hall.*

A handwritten signature in black ink, appearing to be 'A. H. H. H.', written in a cursive style.

Chair PLA Steering Group

18<sup>th</sup> May 2011