

Salcombe Harbour Board – 21 March 2006**FUTURE GOVERNANCE ARRANGEMENTS****Report of Strategic Director (Operations)**

Statutory Powers: The Pier and Harbour Order (Salcombe) Confirmation Act 1954

Financial Implications: None.

Purpose

To update the Board on the work to date to review Harbour Board governance arrangements for implementation from July 2006. The content of this report links to the Council's Aim which is 'to improve the well-being of the people of the South Hams'.

Recommendations

The Board RESOLVES to note the contents of the report.

Background

1. At its meeting of 29 November 2005 the Board agreed to support a set of guiding principles for reviewing Harbour Board governance arrangements for 2006/2007 in line with Department for Transport's (DfT) Guide to Good Governance (Minute SH.19/05).
2. Consequently a small officer working group has been progressing this work with input from the DfT's Ports Division.

Current Proposals

3. **Composition of Board** – reporting to the District Council's full Council, the new Harbour Board comprises of eight appointed persons of which one shall be nominated as Chairman by the Board. Each of the eight Board Members to have one vote each and the Chairman of the Board to have the casting vote.
4. **Board Membership** - By virtue of an agreed Appointments Process all eight Board Members will be 'local authority nominees'. Nominees may come from either the District Councillor membership or via co-opted membership from outside of the Council. Nominees forming the new Board of eight Members will be determined through assessment of each nominee's skills, knowledge, experience and commitment.

5. Each Board Member will be required to demonstrate that they are 'fit for purpose' having regard to a Job Specification which will be developed for a Harbour Board Member following the DfT's most recent guidance on Harbours. Broadly speaking, the duties of a Board Member will be considered to be on a par with those of a director of a company with obligations, responsibilities and statutory duties relating to the Harbour.
6. In a similar way to the existing Harbour Board, the new Board will be expected to act with independent judgement, to use their skills and experience for the benefit of the Board, be committed to working in the best interests of the Harbour and devote the necessary time to carry out the function of the Board including where appropriate, undertake training. At the recruitment stage, potential Board Members will be asked to indicate their knowledge and experience on matters such as; knowledge of port/maritime or other nautical experience, general finance/business knowledge, their understanding of Harbour users, awareness of environmental issues, aspects related to tourism, leisure and marketing and their knowledge or interest in the local and/or the wider community.
7. In terms of timescale for appointments, it is anticipated that recruitment will take place from May 2006 with appointments to serve a three year term as a Board Member being made from July 2006 by Full Council. Under the new governance arrangements it will be possible to appoint Board Members for a second term but a third term will be the exception rather than the rule and both will be open to a competitive process. Further thought on appointments still needs to be given to succession planning and business continuity of the Board.
8. **Board Meetings** – will take place regularly throughout the year supported by the relevant Council Officers (Head of Service – Harbour Master and team, Member Services, Financial and Legal Services as required). Board meeting will be public meetings arranged and publicised at local venues with good public access. It is suggested that to enable greater numbers of public and Harbour users to attend Board meetings, the meeting itself should commence sometime in late afternoon. Board meetings to be structured to enable a 15-minute public question time at the commencement of the meeting.
9. **Harbour Community Fora** – With assistance from the Council's Community Development Officer, it is proposed to organise a stakeholder event locally during April 2006 and invite organisations with a link to either the Harbour or wider Estuary activities to attend. The aim of such an event is to explain the development of the new Harbour governance arrangements and how user/community groups can be involved in influencing Harbour services when new governance arrangements are established.
10. The intention is to formally establish at least one 'Harbour Community Forum' linked to the actual Harbour Board itself within the Board's Constitution where harbour related issues, proposed projects and other aspects being considered by the independent Harbour Board can be discussed in a relatively informal setting. Board Members will be required to ensure the views at these quarterly Forum meetings are fed back to the next appropriate Harbour Board. Notwithstanding this Board Member responsibility for Harbour Community Forum liaison, community and/or public representation will also be possible during outside of this Forum by way of the public question time at each Board meeting.

11. From research undertaken approximately fifty different groups with an interest ranging from the local community, recreation, sailing, land-based and marine businesses, and also environmental groups have been identified. The list will not be exhaustive and Board Members may also be aware of other parties that should be invited to attend this Salcombe Harbour Community Event.

12. **Work of the Harbour Board** – to lead and review work within the Strategic Business Plan of the Harbour. The Board should ensure that all works and projects support one of the five core business objectives agreed; the maintenance of safety; improving the customer experience; environmental stewardship; encouraging community and user engagement; and support for local prosperity). Within this context some of the key elements of work that the Board will need to own include:-

- Consideration of views from stakeholders and users from the established 'Community Forums'.
- Harbour Service Planning.
- Performance and financial monitoring.
- Review, update and recommending Harbour policies.
- Setting fees and charges.

13. **Governance** – A new Constitution for the Harbour Board will be developed together with a Memorandum of Understanding setting out the control and function of the Board and Council respectively. A first draft of a Memorandum of Understanding is attached at Appendix 1.

Next Steps

14. Subject to Board Members' comments on the content of this report and the Community Stakeholder Meeting in April, it is hoped to finalise work on the new Board's Constitution and Memorandum of Understanding by May 2006 for ratification by full Council.

Risk Assessment

Risk	Mitigation
The council fails to modernise in line with Government guidance in respect to governance and management of Salcombe Harbour.	Review Harbour governance arrangements in line with Government guidance and known best practice municipal harbours.
The work of the Harbour Board does not align with community and user's views.	Consultation and liaison takes place with local users groups, residents and community stakeholders on Salcombe Harbour Board's draft Business Plan at the earliest opportunity.
Governance arrangements are not transparent.	Board arrangements are reviewed and brought into line with the DfT's 'Guide to Good Governance'.
Non-compliance with the Human Rights Act	The rights of individuals will be protected in any future policy development.

Conclusion

15. A newly constituted Harbour Board as set out in this Report will ensure the Harbour's future Strategic Business Plan Objectives are deliverable and that Salcombe remains an exemplar municipal harbour following the DfT's latest governance guidance.
16. The work of the Harbour will also directly contribute to the overall Corporate Priorities of South Hams District Council and continue to meet the local needs of residents and users in and around the estuary.

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Strategic Director (Operations)

Salcombe Harbour Board
21 March 2006

Background Documents: none.

Draft (as at 1 March 2006)

Memorandum of Understanding

between South Hams District Council and Salcombe Harbour Board

“The Board’s objectives are to improve, maintain and manage the whole of the Salcombe-Kingsbridge Estuary for the benefit of users who include local fishermen, local residents and many visitors and to balance the commercial outlook by conserving and protecting the estuarine environment” (from the current Salcombe Harbour Policy Document, 2000).

South Hams District Council (the Council) and Salcombe Harbour Board (the Board) wish to confirm their respective responsibilities to develop and maintain Salcombe Harbour whilst protecting the interests of the community of Salcombe and the environment.

1. Respective Positions and Responsibilities

The Council determines the policy and budget framework for all Council bodies.

The Board, as a body of the Council, is the delegated prime decision-maker for the Harbour. Whilst the Council remains the Competent Harbour Authority, through delegated authority the Board is empowered to make certain decisions relating to the Harbour in accordance with the requirements of the Port Marine Safety Code (the Code) and Health and Safety at Work legislation.

In addition, the Board will work to ensure:-

- That Salcombe Harbour will conduct operations in accordance with the powers granted to the Council as a Harbour Authority by the Salcombe Harbour Order 1954 (The Pier and Harbour Order (Salcombe) Confirmation Act 1954) and any other enabling legislation. And, insofar as it falls within the scope of these powers, the policy of the Council in relation to the Harbour as expressed through:-
 - The Harbour’s Strategic Business Plan;
 - The Harbour Policy Document;
 - Estuary and Environmental Management Plans;
 - Any byelaws approved and adopted in respect of the Harbour;
 - Safety Management Systems in Compliance with the Port Marine Safety Code;
 - Other Council decisions from time to time.

- That the Harbour is self financing and that it maintains commercial accounts in conjunction with the accounts as required by the Authority to demonstrate the harbour's commercial viability;
- That a Strategic Business Plan for the harbour is produced and published annually following approval by the Council;
- That decisions relating to the harbour are based on advice from officers who have a clear understanding of the special requirements of the harbour;
- That they adopt and maintain transparent, speedy and informative communication with relevant Members of the Council's Executive for consultation and reporting purposes;
- That they have due regard for the interests of the local community and user groups, attending 'Harbour Community Forums' seeking views to gain a balanced picture of the effects of policy and decisions;
- That statutory powers and obligations of the Board allow full account to be taken by the Board and that they fall largely to the Board management to deliver (*stock-take of these statutory powers and obligations to follow*) and that the Board exercise these statutory functions in an open, transparent and accountable manner;
- That the existing systems for the delegation of functions be kept under review so it is clear what level of decision can be taken by the Board and by the full Council;
- That any matter which is beyond the delegated authority of the Board is recommended to the Council by the Board;
- That charges and subsidies be recommended by the Board for approval by the Council on a yearly basis;
- They manage and administer all matters relating to the harbour land and property in accordance with policies which may be laid down by the Council from time to time, or exercise of the function is within the financial estimates for the year, or for which such provision has been expressly made by the Council. The harbour's asset base is laid out in the associated plan (*to follow*);
- That once operating costs have been covered and a X% level of profit has been breached, then a Y% claw back provision be instated;
- That the establishment of assured accounts will ensure that surplus funds or receipts from assets sales are prohibited from being transferred into the Council's general fund and that adequate provision is therefore made for capital asset replacement and future development and that the interest of the harbour and its users are properly safeguarded;
- That a binding agreement be drawn up between the Harbour Board and the Council to confirm any rental levy imposed;

- That they oversee the running of services to contract and/or to business plan on commercial lines by advising on business direction in the context of the Council's budget and policy framework;
- They monitor and analyse performance against budget, other indicators and performance plans;
- That issues of concern are raised with officers of the Council.

Main Objectives of the Board are summarised as follows:-

- a) Financial self sufficiency;
- b) Maintenance and development of the harbour infrastructure;
- c) Support for the local economy;
- d) Contribution to the character and attraction of the area;
- e) Compliance with legal and regulatory requirements;
- f) Achievement of environmental considerations;
- g) Open and transparent governance;
- h) Development of staff.