

Association of Drainage Authorities

BOARD MEETING

Minutes of the Meeting held on Wednesday 15th October 2014 at
The Great Northern Hotel, Peterborough

Directors: Henry Cator (HC) – (Chairman)
Eddy Allen (EA), Tony Bradford (TB), Bryan Collen (BC), Tim Farr (TF), Pete Fox (PF), Malcolm Harris (MH), John Heading (JHg), David Hickman (DH), John Hoyles (JHs), Graham Littleton (GL), Richard Penn (RP), Peter Pridgeon (PP), Ian Thornton (IT), Michael Watson (MW)

Vice President: David Riddington (DR)

Company Secretary: Peter Bateson (PB)

In Attendance: Lewis Baker (LB), Sharon Grafton (SG), Ian Russell (IR), David Sisson (DS) (Senior Policy Adviser), Chris Trotman (CT), Jean Venables (JV) (Chief Executive)

Apologies: Lord De Ramsey (LDR), Alistair Driver (AD), John Markwick (JM)

Ref	Minute	Action
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17	There were no declarations of interest	
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18	The Minutes of the Board meeting held on 15 July 2014 were agreed as a true and fair record	
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19	Matters arising	
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Min 11a ix: JV told the Board that Neil Parish would be willing to accept the nomination as an ADA Vice President.

Min 11b: HC explained to the Board that applications had been received for both the Chief Executive and the Technical Manager roles. Interview will be taking place on 22 and 23 October and the Chairman's Group are hopeful that a decision will be made before the conference in order that the successful candidates can attend and meet members. Following this they will liaise with JV for a smooth transfer in early 2015.

Min 13e: MH reported that finance had been provided for a survey of the rivers in the Isle of Axholme and the River Idle.

Min 13g: IR said that the Public Sector Cooperation Agreement (PSCA) also encouraged efficiency and was not just about getting work done.

HC encouraged any Board members who were unsure about the PSCA to speak with North Level IDB to understand the benefits of having one in place. The issue will also be raised during a meeting with the new Chairman of the Environment Agency, Philip Dilley in December, to demonstrate the benefits of the Environment Agency and IDBs.

PF added that the work IR has been carrying out is now yielding evidence and the Environment Agency are now challenging local operations managers to look into what can be achieved. JH asked if there was any evidence that there has been an effect on the precept? PF replied saying that, at present, the Environment Agency are trying to achieve cost efficiencies which will potentially enable work to be carried out where it may not have otherwise been.

JV told the committee there is concern regarding a change in EU procurement directives, which needs to be transferred into UK law. It is hoped that this will not affect the PSCA. PF requested a copy of the letter, and suggested that Phil Winrow be contacted regarding the issue.

ADA

JH commended the work which IR has done regarding the PSCA.

Min 13h: TB told the committee that no agreement was yet in place with Taunton regarding contributions towards drainage boards.

20	ADA ADMINISTRATION AND OPERATION	
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20a	ADA Annual Conferences 2014	
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JV said that Albert Vermue, the Managing Director of Uni van Waterschappen and the new Honorary Secretary of EUWMA would be making the opening address at the conference.

FINANCES AND BUSINESS PLANNING

20b	Payments June 2014 to October 2014	
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RP proposed accepting the payments made by ADA between June 2014 and October 2014, which was seconded by DR and agreed by the Board

20c Finance Report for 2014 so far

JV explained to the Board that due to incorporation the accounting periods were unusual, with the final period for the unincorporated company being 15 months (1 January 2013 – 31 March 2014, and the first period for the incorporated company being 9 months (1 April 2014 – 31 December 2014). This has made apportioning income and expenditure accordingly in both the finance report and budget more complicated. From 1 January 2015 AD will revert to a usual 12 month period however the upcoming handover also makes budgeting for 2015 difficult.

One sum which has been omitted from the accounts is the contribution to the Environment Agency towards the work IR is carrying out, agreed by the Executive Committee prior to incorporation at £5,000. It was also agreed on 19 March that the Board would decide whether to commit to a further year.

JHs proposed contributing £5,000 towards the work IR carries out for ADA, which was seconded by TF and agreed by the Board.

HC thanked IR for the work he was carrying out.

20d ADA Office: Key activities

The activities of HC, JV, SG, TV and CT were noted by the Board.

20e Budget for 2015 including subscriptions

JV explained to the Board that due to the changes taking place within ADA there are large uncertainties, such as office and salary costs, however they will need to be covered by the funds ADA currently has. The papers circulated in advance of the meeting gave the option of a 0%, 2% and 4% increase in subscription fees, with the view that at least a 2% increase would be necessary to continue ADAs work..

EA stated that the Ouse and Humber IDB would be happy with an increase of 4%, as the difference in cost is small. JH was happy to support a 4% increase, but added he represented Boards who do have problems with increases.. If ADA had a good level of local representation, for example attending Branch meetings, these concerns may decrease. Additionally, would it be possible to increase the subscriptions for RFCCs, as RFCC levels are currently similar to smaller IDBs.

TF explained that at a recent RFCC meeting there was an indication that some authorities would be prepared to increase their spending on flood defences, although a majority are holding their spending at current levels, so there may be a conversation to be had about increasing subscriptions. Some RFCCs may be happy but those without IDBs within their area would not understand the reason behind the increase.

RP added that Natural Resources Wales were astonished at how cheap it was for them to become a member of ADA, with their subscription only £592. This will be followed up.

ADA

PF said that the Environment Agency are measured on the delivery of riverbank outcomes by Defra and Ministers – by increasing subscriptions Boards will have smaller funds to carry out their work. HC replied, saying that he understood PFs point and agreeing that a conversation was required regarding RFCC subscriptions, but at another Board meeting in the future.

JH said that from past experience land owners would be OK with increases but local authorities may have problems as they are finding that their budgets are being reduced. DH added that, as a Local Authority representative he understood that for many authorities this may be the case, however the cost of membership for an associate member would only increase by £12.

DR added that, with the history of flooding in 2014, the public are currently happy to pay for flood defences. If subscriptions are to increase by 4% this would be the year to do it.

EA proposed a 4% increase, which was seconded by MW.

In favour: 6

Against: 5

Abstentions: 3

HC declared that by a majority subscriptions would increase by 4%, adding that there would need to be a united message from all Board Members and thanking the Board for an honest and open discussion.

23 REVIEWS, CONSULTATIONS & GOVERNMENT POLICY

Environment Agency Matters

23a Recovery

PF explained that the Environment Agency are still delivering emergency repairs, with approximately 90% of these due to be completed by the end of October, with the remaining 10% completed shortly after.

Measures have been put in place to ensure the standards of protection are retained. This has been a testing time for everyone and there has been a very high level of FCRM funding.

Work on the Somerset Rivers Board is progressing, and the dredging is ongoing and slightly ahead of

schedule.

JH asked how Defra measure the success of works carried out?

PF replied, saying that there are a series of outcome measures centred around improvements to households protected, then subsections covering households in deprived areas, habitats created and other measures to demonstrate value for money.

23b Investment

PF thanked the IDB community for its response to the 6 year capital programme which is currently being finalised for inclusion in the Autumn statement on 3 December. It was stressed that the programme has to be able to retain flexibility for the six year period.

PB said that there had been some concern regarding the submission of information for the 6 year program, as information was required by March, with feedback due in July. However this was not received until August, just before RFCC meetings, with a further release after the budget had been set. Could this be improved for next time? LB said that he understood the problem and will feed this information back. **LB**

DS welcomed the 6 year investment, and asked whether there was any indication of revenue spending for the next year and whether there has been any progress for a six year plan for this. PF said that indicative spending and planning is being looked into but the 6 year plan has taken priority. Annual revenue planning does still continue and more money is being invested than ever before but this also has strings attached. With regards a 6 year settlement of maintenance, this is a subject which has been raised by the new Environment Agency Chairman during an introductory meeting with the Government. However it is important to remember that national debt is rising so following next year whichever party is in power will have to make decisions regarding funding. Defra is unlikely to be protected from any reductions.

LB added that the Government has retained £70m funding for the next two years. A long term settlement would be of benefit to all as it would enable planning, but at present negotiations are ongoing with the treasury. TF asked whether there was a provision to ensure that funding was spent within the year? PF replied, saying that if there is a clear case for funding the funding will be spent.

JV said that there is an argument regarding enhancing as due to an increasing expenditure on environmental legislation requirements eg eel regulations less is being spent on reducing flood risk in flood risk projects. Perhaps there should be a separate environmental funding stream identifying what is spent in order to comply with the environmental legislation.

PF replied, saying that indicative allocations for environmental requirement have come under scrutiny and in real terms will be shrinking during the 6 year program. Some investments for eels have been moved to the end of the period or into the next term.

JV asked whether this could be extended to IDBs, as some want to carry out work on pumping stations, but when they factor in the work which will need to be done in order to meet the eel regulations the work is not carried out, as it has become too expensive. If work is carried out it is reducing the budget for flood risk.

LB asked for examples of situations where this has occurred.

EA said that Ouse and Humber IDB are preparing to submit an application for funding to carry out work on a pumping station but fish friendly compliant pumps are around £60,000 more expensive. The pumping station protects a large number of properties and any shortfall in funding will have to come from the public. **ADA**

MW also had an example where in order to put the appropriate fish friendly pumps in during a pumping station refurbishment would result in a 30% loss of capacity, meaning that there will need to be an increase in the size of the pumping station, just to maintain capacity.

BC said that this was also an issue for Wavney, Lower Yare and Lothingland IDB, when replacing two pumps. The Water Framework Directive emphasis seems to be on protecting the environment, not on flood risk protection, when they should be working together.

TF said that the key is to be constructive and find balance and contributions locally are very important. This could be a good opportunity to get something set up to discuss maintenance and if Defra were to set up a work stream it would be very interesting.

DH welcomed the 6 year programme but felt that some aspects of the development was very last minute, without the opportunity to discuss proposals. It seemed as though Treasury had ownership and were controlling who could and couldn't see the proposals, which makes things hard on a local level. **Defra**

PF recognised and accepted the feedback. There has been a changing relationship with the Government over the course of the settlement which has made it increasingly difficult to work with trust and integrity at local levels. This is one of the challenges of helping and supporting Government.

LB added that Ministers are keen on engaging locally and taking account of local expertise. Defra are keen

to learn from the experiences of this summer, and making this work in the future.

Action: ADA to write to clerks asking for examples where meeting eel regulations has resulted in an increase in spending.

ADA

23c Long term investment strategy

PF explained that the six year settlement means that across the country choices will have to be made but Government as to decide whether to reduce, hold or increase risk. There is also a discussion regarding climate change and the impact this will have on protection and resilience which will be presented to the Secretary of State soon.

23d Consultation: River Basin Management Plans and Flood Risk Management Plans

PF said that there is currently a Flood Risk Management planning consultation running concurrently with a River Basin management planning consultation. The intention is to have one conversation, leading to meaningful discussions, and any feedback regarding meetings will be welcome as the Environment Agency are anxious to get the right response.

24 CONSULTATION UPDATE

24a Changes to Section 23 consents for Nationally Significant Infrastructure Projects

CT explained to the Board that during the last meeting in July, JV explained that the consultation by DCLG on changes to how Section 23 consents are provided for nationally Significant Infrastructure Projects would open in July. This consultation closed on the 29 September and ADA submitted a response disagreeing with the proposal to pass the decision on whether to include S.23 consents within the Development Control Order from IDBs to the developer. Middle Level, Kings Lynn, and Bedford Group responded directly to DCLG, mirroring ADA's concerns and David Sisson has voiced his support for ADA's comments.

LB had not seen the response from ADA or IDBs, but assured the Board that Defra were making strong representations to DCLG to ensure IDBs are properly compensated.

24b EA Smarter Environment Regulation Review (SERR)

CT told the committee that the majority of the Environment Agency guidance is due to be redrafted to SERR standards. In practice this means shortening wherever possible and removing anything that is classed as 'good practice', and is as a result of transferring to the .gov website. The Environment Agency consulted on the proposed scope and contents of its future national guidance, along with proposals to archive some of the guidance it owns so it is no longer published on .gov. This guidance will still be available from the national archive site but will no longer be maintained and updated by the Environment Agency, although such guidance can be taken over, published on other organisation's websites and maintained by them in the future.

ADA circulated an email to clerks on the 1 September detailing user sections in the consultation that are important for IDBs, such as Responsibility as a Flood Risk Management Authority; Managing watercourses; Responsibilities and managing FCRM GiA; Applying for a Flood and Coastal Risk Management Grant in Aid (FCRM GiA) allocation and; Technical approval for a FCRM project. The consultation closed on the 25 September. No feedback from Clerks was received. However ADA responded on detailed points on the content and scope of future guidance, as well as flagging up that ADA would like to discuss taking on some of the archived guidance.

24c National Flood Risk Assessment (NaFRA)

CT explained that the Environment Agency has issued proposals for flood risk information it would make available in future and how it would be disseminated (the ABC1 Report). ADA is concerned that the proposals identify IDB interests very narrowly: only in relation to managing water levels on agricultural land. The role of IDBs as Risk Management Authorities is not recognised. The ABC1 report must acknowledge that IDBs are not solely part of the agricultural sector.

The interests of IDBs in flood risk information, the requirements of IDBs for this information and the benefits to IDBs from better information aligned closely with the requirements of Lead Local Flood Authorities (LLFAs). IDBs use flood risk information in the same way as LLFAs to reduce flood risk to land, the people who live on it and use it, and infrastructure. The benefits from the information for LLFAs are equally applicable to IDBs. IDB requirements for flood risk information also align with many of the requirements and benefits identified for the Water industry.

ADA was concerned that the impact of new development on flood risk elsewhere should be built into the information provided to enable those impacted to work with planners and developers at the catchment scale as well as locally to manage the risk and develop appropriate mitigation measures. The statement that "IDB catchments are flashy so flood warnings are not always of use to IDB members" was also questioned, as

low-lying parts of catchments that IDBs manage take longer to respond to rainfall events than the higher-gradient upland sections of the catchment that are usually described as 'flashy'. The delay between the onset of a heavy rain event and the onset of flooding in IDB areas is usually in the order of days rather than hours, hence, in the majority of the IDB managed areas, flood warnings are very useful.

24d SuDS update

CT told the Board that the consultation by DCLG and Defra on a new way to implement SuDS opened on the 12 September and will close on the 24 October 2014. The proposal is fundamentally different to the way forward set out in Schedule 3 of the Flood and Water Management Act. Schedule 3, had it been implemented, required construction work with drainage implications to have its drainage systems for managing surface runoff approved before construction could begin. The FWMA made provision for a SuDS Approving Body (SAB) to be established in unitary or county local authorities (which also have Lead Local Flood Authority responsibilities) to approve and, where appropriate, adopt SuDS. National standards would be published by the Government, and in order for drainage applications to be approved, the SAB was to ensure that the applicant has designed the SuDS in accordance with these. Once approved, the SAB was to adopt and maintain properly functioning SuDS that serve more than one property. The FWMA also made the right to connect surface runoff to public sewers conditional upon the drainage system being approved by the SAB. The new proposal is to implement SuDS through the planning system, dispensing with SABs and mandatory requirements for SuDS and giving more discretion to developers over whether and how to use SuDS.

ADA is minded to remind Defra that the original intention was to have organisations such as the water companies adopt SuDS and for developers to pay a commuted sum for maintenance. Feedback from upper tier local authorities is that they are keen to lose the SAB role as they were worried about the staffing/cost implications, although they are worried that the proposals will effectively kill off mainstream SuDS as it will be so easy for developers to stick to piped solutions. ADA is proposing to respond that the proposals are passing the initiative for implementing SuDS to developers, so they decide whether SuDS are viable, and if they want SuDS they choose the option for adoption. This appears to be a continuation of the status quo but as the intention is to only apply the planning policy to major developments there is a real danger that the new proposals are actually weakening the current planning policy for SuDS. ADA will also remind the Government what Sir Michael Pitt was trying to achieve: that the proposals are reversing six years of progress, and question how the new proposals will ensure that new development does not leave a legacy of increased urban flooding.

EA said that the changes now being suggested were a massive step back suggesting that it appear the big developers are dictating to Government. TF added that during a recent RFCC meeting there was a feeling of uncertainty regarding SuDS and how the matter has been handled.

24e River Basin Management Plans

CT explained that the consultation on updates to River Basin Management Plans and new Flood Risk Management Plans opened on the 10 October and closes on 10 April 2015 (For RBMPs) and 31 January (for FRMPs). ADA sent a note to Clerks on the 29 September alerting them to the forthcoming consultation, followed up with a second email on 10 October, encouraging IDBs to work directly with the Environment Agency to ensure that the plans reflect IDB interests in their areas. If there are any issues regarding the plans or the consultation that Clerks wish ADA to raise with the Environment Agency they are to get in contact.

LB told the Board that Defra was investigating Flood and Water Management Act 2010 to understand how it was working following its implementation. There will be a breakout session held at the Environment Agency/Defra Flood Stakeholder Forum on 11 November, and any input will be welcomed.

24f Proposed Somerset Rivers Board

TB explained to the Board that there is currently an ongoing working programme in Somerset, and in the last few months Somerset Drainage Board Consortium have attended meetings with councils and Defra in order to try and get principles agreed for the proposed Rivers Board. It has been difficult to get reasonable representation for IDBs: initially it was two but has now fortunately increased to four, with the final Board made up of 13. There are concerns that IDBs are being excluded from meetings, with a meeting between the council and the Secretary of State taking place, with a large number of attendees but no IDB representation. There also seem to be problems in getting information in advance of meetings, with papers being sent the night before or the day of meetings to attendees, which leaves very little time to read and understand. Although the Secretary of State wanted this up and running by the end of October this will not be the case. The County Council has taken the lead and has been taking recommendations but all the advice is coming from the Environment Agency and IDBs, which is putting a strain on both organisations as they are then unable to focus on their routine work. However the EA and the IDBs have never worked so closely before and there have been many positives from having a close working relationship. Funding for the Rivers Board will be based on all of Somerset but there are some issues with regards councils, as one council prefers a unilateral rate as they currently pay a high Special Levy. The funding

required would be equivalent to 28p per property per week in order to sufficiently manage maintenance but this needs to be agreed. The proposed Rivers Board would also have to be a self-precepting body, so the Special Levy would be paid to the Rivers Board, meaning IDBs would have to request funding. The amount of funding would have to be set in stone, as TB will not recommend joining otherwise. IDBs need the ability to raise their own finance otherwise they will lose control. This could be rolled out nationwide once agreed so it has to be right from the very beginning.

HC thanked TB and Somerset Drainage Consortium on behalf of the Board, and said that this could be a challenge faced by all Board if it were to be rolled out nationally.

JV said that there was a concern that if the money from an Authority was collected by a council, then distributed it would imply that there would be a change in legislation, which would then be universal in England..

LB replied, saying that there is currently a very high threshold for new primary legislation and new types of public bodies; unless it can be proved that what is required can't be done through an existing body.

HC asked TB to share the proposals with the Board when they are finalised.

TB said that there are concerns as to how the catchment will be used and represented and what the outcome would have on ordinary ratepayers. Thanks should be passed onto Nick Gupta and John Rowlands from the Environment Agency for the work they have been carrying out. PF said that the sense of frustration was also shared by the Environment Agency staff.

LB said that Kathryn Holdsworth was a regular Somerset Rivers Board attendee from Defra and the Secretary of State is visiting almost monthly so is fully in the picture.

TB thanked ADA for the advice and help that they had offered during this time.

25 REPORTS FROM THE COMMITTEES

25a Technical & Environmental Committee

GL presented the 9 Sept T&E Committee report which discussed a wide range of issues as detailed in the report.

PF suggested that a discussion regarding the cost of implementing the Eels Regulations and any issues this may be causing when carrying out work on assets could be usefully discussed at the next T&E meeting.

25b Policy & Finance Committee

IT presented the P&F Committee report from the meeting held on the 9 September which discussed a wide range of issues as detailed in the report.

26 The future of IDB audit and proposed Sector Led Body

PB explained to the Board that the body which currently appoints auditors to public bodies, the Audit Commission, will be disbanded on 31 March 2015. A sub-group of the P&F Committee met to discuss the various options available, following this date, the preferred option being a Sector Led Body. If ADA do not join the Sector Led Body they would have to carry out the work themselves, procuring and appointing auditors to IDB which would be an onerous task. It is unlikely to receive any funding from the Department for Communities and Local Government leading to increased subscription fees. The sub-committee recommended that ADA join the Sector Led Body and ADA need to formally give feedback by December 2014.

The Board agreed that the Sector Led Body was the preferred option.

27 Confirmation of Terms of Reference EUWMA

JV told the Board that at the recent EUWMA meeting an update of the terms of reference had been presented which requires all constituent members' approval.

The Board approved the new terms of reference for EUWMA.

28 Progress with the transfer of IDB functions to Natural Resources Wales

RP explained that following the Welsh Audit Office report into Caldicot & Wentlooge IDB the decision was taken in October 2013 to transfer the functions of IDBs in Wales to Natural Resources Wales on 1 April 2015. There are currently 11 IDBs in Wales with NRW and 3 IDBs having independent Boards,

The Minister confirmed at the start that staff would be protected and what began as a commitment to replace the IDBs has led to very strong guarantees about work being carried out on the ground: the resulting organisation looks a lot like an IDB. However, being part of Natural Resources Wales it will be responsible for maintaining Main Rivers in addition to watercourses and will have oversight of the sea defences. A

Committee, not an executive Board, will be in place to make decisions regarding work programs, drainage rates, etc. Local Authority members were concerned about the right to challenge decisions so a provision for the right to take a challenge to the Minister has been included in the draft Environment Bill. The transfer is taking place through the Land Drainage Act so at the end of the process only one Minister has the power to make a decision.

Two of the IDBs being transferred also have areas in England (Lower Wye IDB and Powysland) – these areas will be created as separate IDD, but will be managed by English IDBs. There has been a commitment that any funds raised in the past or currently will be ring-fenced, so any reserves will be transferred.

JV said that although it looks like a drainage board it won't have the powers as actual decision making power has been taken away from the Boards.

29 Any other business

- a) EA told the committee that he had received information regarding the amount the Environment Agency are now charging for providing advice, and commented that IDBs could potentially use this as a funding mechanism.
- b) DR commended ADA on the quality of the Autumn Gazette
- c) BC requested a list of acronyms be provided.
- d) JV reminded Directors that ADA requires details from them in order to transfer ADAs VAT number.

Dates of next meetings

- **ADA Conference 2014- Wednesday 12 November 2014 , London**
- **ADA Board meeting Wednesday 18 March 2015 in Peterborough**
- **ADA Board meeting Wednesday 30 June 2015 in Peterborough**
- **ADA Board meeting Wednesday 7 October 2015 in London**