

Association of Drainage Authorities

TECHNICAL AND ENVIRONMENTAL COMMITTEE

Minutes of the Meeting held on Wednesday 29 January 2014 at The Farmers Club, London

Present: **Graham Littleton (GL) (Chairman)**
Ian Benn (IB), Andy Carrott (AC), Cliff Carson (CC), Rob Cathcart (RC), Henry Cator (HC), Andrew Morritt (AM), Andrew Newton (AN), John Oldfield (JO), Nick Stevens (NS), David Thomas (DT), Innes Thomson (IT) and Jean Venables (JV)

Apologies: David Sisson (DS), Gordon Hunt (GH)

In Attendance: Sam Edwards (SE) ADA, Tim Vickers (TV) ADA, Ian Russell (IR) EA/ADA

Ref	Minute	Action
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JV and announced that she would need to leave the meeting for interviews with media including Sky News concerning the UK flood events. HC also had another meeting to attend. Therefore items on the agenda were discussed out of their order so that JV and HC were present for particular items.

1293 **Lessons learnt from the recent floods**

JV updated the committee about speaking on the Today Programme on Radio 4 on 28/01/14 which created a good response from the industry. This led to JV speaking on the Jeremy Vine show (Radio 2 – 28/01/14). Following this, the Independent newspaper requested input from ADA on an article about the floods and Sky News organised an interview with JV. Further to this, HC spoke with Radio five live. JV also stated that she was to speak with ITV after today's meetings. JV commented that ADA had received good support from the drainage and engineering industry.

HC told the committee he had contacted Bell Pottinger (a political lobbying agency) in order to enhance ADA's publicity and to keep pressure on the Government to get more maintenance funding. ADA reserves would be utilised to finance the services of Bell Pottinger and maximise the present opportunity.

NS commented that ADA can struggle to get its views heard during these events as the EA gets the most exposure. ADA/IDBs are normally overshadowed and it is good for ADA to demonstrate what IDBs/ADA are doing. NS cautioned ADA over the stance it should hold on dredging as the channels in Somerset are tidal channels and not fluvial channels. NS expressed that if it was easy to solve it would have been solved long ago; the whole system is on a knife edge.

GL referred to HC's letter to Owen Paterson. The letter included three points: job cuts in the EA, cuts to the maintenance budget, and that IDBs are having their budgets constrained in anticipation of the Local Audit and Accountability Bill.

HC stated that he has also written to the Prime Minister on 6 January and had received acknowledgement.

AC commented that the situation in Somerset was desperate and also that the coastal flooding event on 5 December had been so close to a disaster. He stated that sea defences are now a worry. JV referred to this situation being overshadowed by Nelson Mandela's death in the media but JV had brought this up in her media interviews.

AM quoted figures from the coastal flooding event and asked if it would be useful to collect these figures for use with media enquiries. The committee agreed. DT described that ADA/IDBs have now got their foot in the door politically on the subject of maintenance but that the door is not fully opened. The message is still not received in the

industry about the value of maintenance. DT stated that for every £1 spent on maintenance £10 is saved; for every £1 of capital spent £8 is saved.

GL referred to the tidal surge that had impacted his area (Lower Severn). Remedial repairs here are short-term solution but not the long-term answer.

AM discussed a relevant debate in parliament where the topic of maintenance only makes up about 2 paragraphs out of a 3 page debate. DT expressed that George Mombiot's article in the Guardian was the wrong debate at the wrong time and that it is ill informed. This is unhelpful to ADA, IDBs and the industry. JV added that the UK has 60 million people who need to be at 'acceptable' risk of flooding and that we need to feed them too.

HC then left the meeting (11:00).

GL stated that the committee fully supports the work HC/JV are doing for ADA/IDBs. GL commented that the excellent coverage in the press is bringing important issues to attention of the public. JV added there should be praise for EA staff on the ground and that this was a policy issue. DT asked if ADA was planning to speak to Anne McIntosh. JV said that she was seeing her later in the week.

JV left the meeting (11:05).

IB commented that NS has been very honest about what he can achieve in his area (Somerset), but the EA are constrained by the Government about what they can achieve. It is a Government/policy issue. EA and IDBs don't individually hold the answers, partnership working is key to achieve long-term answers. We have to be realistic in our approach. IB added that no LLFA members sit on the T&E committee.

IR said that the EA and ADA/IDBs need to work together under the same objectives. IR said that it is not appropriate to be seen criticising each other.

DT expressed that working together does propose a challenge. DT stated that the EA is not committing enough money to stand still let alone move forwards, but accepted that there are political drivers. DT added that we should work together but ADA has to fight to get proper investment. ADA can fight where the EA cannot for more investment. DT stated that the attitude towards investment is not good and that we need to change perceptions - flood defence is bottom of the pecking order. DT asked the committee: how can we move the debate onwards? Investment needs to return on money.

IB added that IDBs are not blameless in this. IDBs have had enough time to support their cause through surveys, statistics and data collection etc, which may have been missed in recent years.

AM stated that the RFCCs need to be aware of this point as any chance of lobbying more investment has got to be evidence based. DT referred to the EA's corporate strategy: up to 2035, £1bn is needed to be spent just to maintain current systems. DT asked how this figure can be raised. AM replied saying that evidence based arguments are crucial. JO said in his experience that to spend money on gathering evidence, the evidence needs to show a 5:1 ratio for benefits/cost to win Grant in aid, whilst maintenance is more like 30:1! IR referred to inspections and the SAMS process. IR stated that when the EA are discussing the future they should be discussing it in June/July the year before; sharing info is key. The SAMS process has higher priority for property rather than agricultural land. IR stated that there is the need for more local discussions about what is going on. If we know we won't get maintenance funding in a particular area then where else can we get it from – more stakeholders are needed to find a way of raising funds.

GL concluded: Somerset has brought this all in front of us. Attitudes have to change.

1294 Minutes from previous meeting held on 11 September 2013 and Matters Arising

The Chairman asked the committee to agree or comment on the minutes of the previous meeting.

On page 3 RC stated that he had circulated information on licensing of beavers. If further details are needed ADA should write formally to NE to request site details (6 or 7). RC added that the NE license refers to native beavers not those raised in captivity. JV provided a newspaper cutting of a beaver that had been found in Devon by EA staff.

IR provided an update on the Public Sector Cooperation Agreement. He stated that in summary there has been good progress. There are 6 agreements in place and another 7 which have been agreed in principle where the EA has funding for IDB to do work. Where the EA doesn't have funding, the IDB could carry out work at their cost, or EA/IDB could share the costs. IR stated that the agreement is flexible. He added that he would like to set up more during the 2015 period. De-maining could be a topic of discussion if an agreement on funding is not reached.

ADA

On page 4 JO provided a correction to what appeared under his name on the topic of land owner maintenance. He stated that he had reservations on landowners carrying out maintenance. Firstly statutory authorities are empowered and funded to carry out maintenance works for the common good of the whole system. Secondly IDB and EA officers are highly trained in environmental awareness and health and safety for working on watercourses, and operate appropriate plant and equipment. Landowners on the other hand are not likely to be so well trained and are unlikely to have the same resources available to them.

Minutes of the meeting held on 11 September were agreed as a true and fair record and signed by the Chairman

1295 EA Matters: Water Transfer Licensing

TV identified that the EA has recently consulted on their charging regime for 2014. Part of this relates to abstraction charges which may become relevant for IDBs in the future as previously exempt abstractions, including the practice where IDBs transfer water from a main river to local drains, may be included in the licensing process. The IDB may be liable to a one off abstraction charge or subsistence charges. Charging options are listed in the consultation document. TV stated that ADA had replied to the consultation expressing that IDBs should not be charged for water transfers. Where IDBs are transferring water to facilitate irrigation, they are not the end user. If IDBs were charged for the abstracted water, it would seem that the water would be paid for twice, by abstractors and the IDB. IDBs should also not face a charge as they transfer water for multiple benefits such as to sustain appropriate water levels for ecological reasons.

DT commented that IDBs are never a user of the water and that the process seems to be passing additional charges on to IDBs. DT questioned whether there would be a single license or need for multiple licenses. He also questioned the implications for inter-board transfers. DT identified that the EA has created a template guidance document, but was not clear if it is the most current guidance, and asked if quantities were attached to the licensing. DT concluded that there are a number of issues that need answering.

AC agreed with TV's comments and was also worried about quantities. DT also added that to introduce a charging arrangement might impact the current good working relationships between the EA and IDB.

AM referred to the Water Resources Act. This legislation provided a need for an abstraction license. He commented that the need to have a license had been in place for a considerable while now, only that implementation has been patchy. In his experience, they have needed a simplified license but they are not charged on water quantities. AM stated that a one off nominal charge may be acceptable for a simplified license. The regime should be as simplistic as possible.

JO suggested that following the success and lessons learnt from the Public Sector Cooperation Agreement, it could be appropriate for IR in his role at EA/ADA to work to get a similar strategy framework in place on this issue. IR stated that he has had initial discussions with JV on what should be on his 'shopping list' going forward with his work for EA/ADA..

ADA/
IR

ADA/IR to keep up to date on the progression of this issue and consider whether there is need to look at implementing a strategy framework.

1296 IDB Operations and agri-environment agreements

RC stated that he had circulated draft guidance regarding IDB drainage channel maintenance and landowner obligations under Environmental Stewardship and SPS Cross Compliance rules. It is a first draft. RC invited comments from ADA to send back to Natural England. Following this, key issues can be worked through to help prepare a better draft. RC stated that some elements in the draft were new to as the land management team had worked on creating this guidance. The new elements included the need to calculate nitrate concentrations and that organic fertiliser cannot be spread within 10m of a watercourse.

TV added that Boards across the country had been receiving a mixture of messages concerning what they could and couldn't do and hoped this guidance would provide clarity.

ADA

AM stated that the inconsistencies are more to do with the different attitudes of local Natural England officers and landowners. AM stated that he was most concerned about the need to calculate nitrate concentrations. AM questioned the necessary sampling regime and costs concerned per watercourse. DT stated that previously Natural England had pointed him to the NFU guidance for this particular issue. RC said that the Rural Payments Agency has provided model information for farmers in the past on nitrogen content of applied organic material.

IB referred to an email from Sam Markillie that had raised a number of points on the implications of agri-environment agreements.

GL concluded the discussion by providing the experiences of his Board (Lower Severn). For his Board, meetings with Natural England have been worthwhile. He stated that it comes down to NE officer/farmer/land owners' attitudes/opinions.

1297 Water vole mitigation guidance

RC updated the committee on progress with the ADA/NE water vole guidance. RC advised that the easiest approach for IDBs is to have a class license for mitigation in place for when they conduct drainage channel works. RC stated that the first draft of the guidance has been produced internally and needs to be circulated internally before being sent to ADA.

RC

1298 Powers of Entry – Section 64 LDA 1991

TV explained that Defra had conducted a powers of entry review and as part of this had suggested adding a restriction so that a warrant would be required before entering any dwelling premises. Dwelling premises for these purposes include gardens as well as any house. TV stated that ADA had responded to say that a warrant should not be required. Watercourses may run through gardens and it is important that maintenance of these are not delayed in order to obtain a warrant. Obtaining a warrant would also have cost implications.

DT asked what measures there were to access a particular piece of land in an emergency. He stated that the need for a warrant seems unnecessary and difficult.

JO agreed that this would be a bizarre change of legislation. After TV had explained that a non-formal consultation on this topic had only been sent to LLFAs but ADA had been formed via the Middle Level Commissioners, JO commented that LLFAs alone were perhaps the wrong consultees as they have little experience with needing to access land on people's property. JO praised ADA for getting involved in consultation as this restriction would lead to more red tape.

AM asked if this was connected with any other forms of legislation or whether it was just the Land Drainage Act (LDA) 1991. GL added that the LDA 1991 is vital for IDBs'

operations - to lose this power would be devastating. He concluded there is a need for further discussions.

ADA

ADA to follow up this issue with Defra staff.

1299 **Updates: EA working with Natural Processes project**

JO expressed that this is a project led by geomorphologists who are 'WFD-type' people. JO stated that it is important to consider the broad picture of flood risk management needed and not just the view that 'hard engineering is bad' and only green/soft engineering is appropriate. Accepting hard engineering is sometimes needed. Green engineering is a good tool but it is important to find the right balance for the right environment. CC added that the concept is beyond hard engineering; soft engineering also has its place.

- Vegetation control handbook:

SE gave a briefing saying the handbook and decision-making tool is in final stages of completion inviting any committee members to comment. DT and AC volunteered to review the handbook's penultimate draft. SE to send over the documents.

AC linked the vegetation management handbook to the channel management handbook and said that it would be discussed at the Robson meeting. AC concluded that it is a good tool for validating techniques chosen by staff. SE added that both projects will also be presented at ADA's Local Authority Seminar in March.

- SABs and SuDS:

SE/DT/
AC

DT stated that progress on the decisions concerned with SuDS continues to stall.

JO added that ADA needs to keep an eye on the situation. In Defra they are lacking the in-house technical expertise to make the right decisions. The issue of funding the long term maintenance of SuDS has not been resolved. JO stated that developers should pay commuted sums to maintain SuDS rather than the funding costs being passed on to council tax. JO stated that Defra plans to consult on funding for SuDS in March.

ADA

1300 **Health and safety (H&S) issues**

IB mentioned the H&S questionnaire. IB expressed that there are opportunities for IDBs to move forwards and expressed the importance of having robust H&S measures in place. IB asked how many Boards reviewed their measures. IB continued saying working in the dark or in hazardous environments is potentially dangerous and therefore Boards need to provide appropriate training, PPE and/or create robust call out procedures. He warned that occasionally IDBs can be questioned over their guidelines, so regular audits is crucial to make it legal and not open for scrutiny. It is extra work but necessary.

GL referred to the previous meeting, and asked if there had been any development on Lyme disease and ticks guidance. IB replied not yet but that he could send it when ready.

IR described how the recent floods pose real problems to EA staff inspecting tidal defences which have a risk of breaching. IR stated that it is important to look after our own people and prepare them both physically and mentally: long hours in dangerous environments is dangerous. IR added that even staff driving home shouldn't be overlooked - he mentioned an EA staff member that went off the road due to tiredness.

IB then expressed that it was important to understand that IDBs are not an emergency service. IDBs can act like they are which jeopardises their safety when they don't need to. Sometimes their passion for protecting people in their districts creates an unnecessary risk when the emergency services should be doing the work and not the IDB staff.

AM referred to floods in his area (Ouse & Humber) where his staff had shown great enthusiasm, but identified that they need to realise the danger in rushing in to rescuing people. But in contrast he also added that those flooded have high expectations of IDB

staff and may ask: “why wasn’t I rescued?” - not realising the danger posed to IDB staff.

JV returned to the meeting -12:22 – JV stated that she was interviewed by BBC Somerset after the Sky News interview.

1301 ADA incorporation, Executive Committee and Branch Structure

JV described that incorporation was happening on time: the new body would be set up by 1 April to fit the next financial year. JV complimented Andy McGill and Peter Bateson who had been working hard to facilitate the incorporation process. JV said that the structure of the Executive Committee will be altered from 2/3 members elected by each ADA branch to just 1. She identified that most branches have already taken steps achieve this. The last Executive Committee with its current members will meet in March and the new Executive will meet in July. JV stated that she was delighted to hear that the EA were looking to agree to take up a voting power on the new body. JV described that the new ADA will strengthen the roles of the ADA branches and the importance of the branch meetings as an opportunity for IDBs/EA/NE/Local Authorities to get together.

GL added that there would be a change for the Welsh Boards under the new regime. JV said that the Severn and Somerset Boards had talked about amalgamation. Some of the Severn Boards may join the SW Branch. However there are two small Boards in Shropshire in the Upper Severn who are actually geographically closer to another ADA branch so a decision will need to be made for these Boards. The Boards in Wales will become a branch on their own so Wales has a representative on the Executive. This has reflected the planned change for Welsh IDBs to be taken in by Natural Resources Wales.

JV concluded that incorporation will enable ADA/IDBs to have credit card options for payments.

1302 Any other business

a. Special Events Committee

JV said that James Epton has now retired from this committee. Peter Pridgeon has volunteered to chair the committee. ADA needs volunteers to populate the committee. The first task is to plan the time/location for next Demonstration/ Exhibition. There will be no Demonstration this year.

- b.** NS reported he had found a Taunton based firm of lawyers called Davitt Jones and Bould through the Government procurement process. They have experience from the Charity Commissioners and charge reasonable rates.

c. Local Authority Seminar 2014

TV reminded the committee members that the Local Authority Seminar was happening on 20 March and asked the committee to get their appointed Board members to attend.

- d.** JO noted that the Medium Term Plan had been brought forward to March/April from June/July: IDBs need to be ready to populate it.

e. Coarse fish regulations update

DT stated that he had not heard of developments with regards to this and that the first target is Jan 1st 2015 to have measures in place. DT questioned whether funding is provided by the Government and AC identified that in his area he was given a £1.1 million estimate for weed screen option for a pumping station.

Chairman closed the meeting

Date of next meetings - Wednesday 14 May 2014 10.45 – 13.00
Tuesday 9 September 2014 10.45 – 13.00