



Sow & Penk

Internal Drainage Board

Virtual Meeting

Microsoft Teams

Log-in Instructions to be issued nearer the date

Meeting Papers

Wednesday 17 November 2021

Meeting at 11:00am



Shire

Group of IDBs

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Meeting Papers

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Rating Officer - Janette Parker

Purpose

These meeting papers have been prepared solely as a record for the Internal Drainage Board. JBA Consulting accepts no responsibility or liability for any use that is made of this document other than by the Drainage Board for the purposes for which it was originally commissioned and prepared.

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Agenda

1.	Governance	4
1.1	Apologies	4
1.2	Declaration of Interest.....	4
1.3	Complaints and FOI.....	4
1.4	Minutes of Meeting 2 June 2021	4
1.5	Matters arising there from not elsewhere on the Agenda.....	6
2.	Clerk's Report	8
2.1	Policy	8
2.2	Legislation.....	8
2.3	Environment Agency – Draft Flood Risk Management Plans	8
2.4	ADA.....	8
2.5	Co-Option of Board Member	8
2.6	Board Key Performance Indicators.....	9
3.	Financial Report.....	10
3.1	Rating Report.....	10
3.2	Schedule of Payments.....	11
3.3	Audit.....	12
3.4	Budget Comparison for the Year Ending 31 March 2022.....	13
3.5	Five Year Budget Estimate	14
4.	Engineer's Report.....	15
4.1	Asset Management.....	15
4.2	Planning, Consents & Enforcement.....	17
5.	Health and Safety Report.....	18
5.1	Accidents, Incidents and near misses	18
5.2	COVID-19	18
6.	Environmental Adviser's Report.....	19
6.1	Legislation.....	19
6.2	Policy	19
6.3	Doxey & Tillington Marshes SSSI.....	19
6.4	Biodiversity Action Plan	19
7.	Any Other Business	21
8.	Date of Next Meetings	21
9.	APPENDIX A – IDB Byelaws	22

1. Governance

1.1 Apologies

1.2 Declaration of Interest

1.3 Complaints and FOI

1.4 Minutes of Meeting 2 June 2021

Present	Ray Sutherland	RS
	Len Bates	LB
	Andrew Harp	AH
	Angela Loughran	AL
	Mark Winnington	ML
	Ryan Taylor	RT
	Phil Bates	PB

In attendance on behalf of JBA Consulting, Clerk, Engineer and Environmental Adviser:

Craig Benson	Clerk
Paul Jones	Engineer
David Blake	Finance Officer
Janette Parker	Rating Officer

In attendance on behalf of Environment Agency:

Ian Cook	IC
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RS opened the meeting and brief introductions took place to welcome members and guests to the Board.

Environment Agency

2021.23 IC gave a presentation to members with an update on the Sow & Penk Model. He confirmed that all data had now been collected and incorporated and that the IDB model had also been included. He advised that the release of the model was slightly behind schedule due to the sheer size of the undertaking but that it was currently going through calibration and resolution of stability issues and hopefully they would be in a position to provide some outputs for the meeting with the Board's Engineer planned for the following week. He concluded that the model should be complete by the end of June ready to be shared with partners during July. LB thanked him for the update and queried how far down the Penk the model extended. IC confirmed that surveying was completed to Mount Brook, just south of the M54. RS thanked IC for the presentation and he then left the meeting.

Apologies for Absence

2021.24 Apologies received from J. Sim.

Declaration of Interest

2021.25 None.

Complaints and Freedom of Information Requests

2021.26 None.

Minutes of the Last Meeting

- 2021.27** Minutes of the last meeting held were considered, **proposed as a true record by AH, and seconded LB.**

Matters Arising

- 2021.28** Clerk advised that further to the request at the last meeting from AP and LB regarding the Acton Trussell area he had contacted David Williams at South Staffordshire County Council. He advised that after the meeting he would forward members a link to the Council's reporting website where any issues noted could be reported immediately. LB added that it was not just about the reporting of issues but the action taken and that he would be appreciative of any pressure that could be put on the Council to achieve this. MW confirmed that, as David Williams was the Cabinet Member for Highways and Transport he was the best person to contact with regard this.

CLERK'S REPORT

- 2021.29** Policy – Clerk advised that DEFRA had issued amended Standing Orders which now allowed IDB's to hold virtual meetings at any time. However, DEFRA had noted an error relating to the appointment of the Chair and Vice Chair which had now been rectified and the Clerk advised he had just received this revised version which he shared with members on screen. He confirmed that this would be sent to all members following the meeting. **Approval of revised version proposed by AH, seconded by LB, All in favour.**
- 2021.30** Legislation – Clerk advised members of the issue surrounding the use of red diesel and the Governments requirement for this to cease on 1st April 2022 to reduce the Country's carbon footprint. He added that IDBs would not have an exemption unlike the agricultural sector and that letters had been sent on behalf of the Board to ADA and Ministers to reconsider as this would have implications on the Board's contractor as he might require separate machinery to undertake IDB work which would result in increased maintenance costs to the Board. RS queried the time limit on the exemption. Clerk would confirm and added that part of the Board's activities related to what was classed as the agricultural sector hence the reason for the further lobbying.
- 2021.31** Co-Opting of Board Member – Members discussed the co-opting of elected Board members until Elections in October 2022. Mr T. Williams was proposed by LB and seconded by AH with all Members agreement. Further co-opted elected members would be considered at the November board meeting.

FINANCIAL REPORT

- 2021.32** Rating Report – FO advised current balance of £801.13 made up of 15 accounts of which three were large debtors at £644. He confirmed drainage rates had been issued for 2021/2022 and that 57% of agricultural rates had been collected with the Special Levy paid by South Staffordshire Council and the first instalment due from Stafford Borough Council next week.
- 2021.33** Schedule of Payments – **Approval proposed by AH, seconded AL.**
- 2021.34** Audit – Information noted.
- 2021.35** Annual Governance and Accountability Return (AGAR) Section 1 – FO took members through the report. **Approval proposed by AH and seconded by LB.**
- 2021.36** Accounts for the Year Ended 31 March 2021 – FO took members through the report. RS queried the increase to insurance costs. FO advised this was happening across the industry and related to inflation. **Approval proposed by AH, seconded MW, All in favour.**
- 2021.37** AL queried in relation to the houses being built in Penkridge if that would have an increase on the Council payments. Clerk confirmed it would if the development was within the Board's district. AL then queried whose responsibility it was to check this. Clerk advised this was noted

from planning applications which the Engineer assessed and that landowners often advised if their land was sold for development. LB added that South Staffordshire Council were currently developing their local plan and there was the possibility of some houses near the Penk and that the developer was looking to provide a country park on land to help with flooding issues but that the properties being built at the moment had no effect on the Penk.

- 2021.38** Annual Governance and Accountability Return (AGAR) Section 2 – FO took members through the report. **Approval proposed by MW, seconded by AH.**

LB and MW left the meeting.

ENGINEER'S REPORT

- 2021.39** Engineer advised information in papers was for information but hoped it demonstrated how the Board were working with other RMA's and Community Groups.

HEALTH & SAFETY REPORT

- 2021.40** Information noted.

ENVIRONMENTAL REPORT

- 2021.41** Information noted.

ANY OTHER BUSINESS

- 2021.42** Clerk asked members if they would prefer an actual meeting in November or continue with virtual meetings. RS stated that virtual meetings worked well and reduced costs dramatically although believed that an actual meeting once a year would be a good idea suggesting this could take place at the same time as the Stafford County Show in May. AH concurred with his comments. AL added that virtual meetings were convenient but that an actual meeting should take place but not in November. All members agreed to virtual meetings in November and February with an actual meeting to take place in May.

DATE OF NEXT MEETING

- 2021.43** 17th November 2021. RS thanked all for attending and closed the meeting.

1.5 Matters arising there from not elsewhere on the Agenda

2021.28 Please see below the response that was received from David Williams (Cabinet Member for Highways and Transport)

Dear Mr Benson

Thank you for your correspondence dated 02 June 2021 concerning potholes and flooding issues.

All roads in Staffordshire receive routine highway safety inspections and these are completed monthly, quarterly or annually depending on the road classification. We also receive thousands of reports from the public each month regarding highway matters.

Highway defects are risk assessed based on the severity of the problem, volume of traffic using the route and position of the defect for example. The inspection considers these factors to determine the safety risk the problem presents. Any raised remedial works following the inspection are given an appropriate category of priority which dictates the timescale for repair.

Staffordshire County Council routinely cleanses over 180,000 highway gullies and the majority are cleansed every three years but major roads and areas that flood are cleansed more often. Thank you for using our reporting system to report instances of flooding and/or blocked gullies. We ask that you provide an email address when raising an online report so that automated email updates can be sent to you regarding the progress of your enquiry.

The caveat with any works raised is that our resources are very limited, we have around 180,000 gullies to maintain and six gully machines, with the majority of these having to work to a strict

routine programme. Any ad hoc works, including drainage investigations, therefore have to be prioritised in accordance with risk.

The funding available to the County Council has always fallen short of what is realistically needed, however. The highway maintenance budget is only a very small part of the Council's annual spend (about 5%) and we have to operate within what we are given.

I hope the above information is of assistance.

Kind regards

David

2. Clerk's Report

Recommendation:

- Members note information contained in the Report
- To approve the Byelaws Item 2.1.1
- Approve co-option of new member

2.1 Policy

2.1.1 Byelaws

The Board are requested to approve the updated Byelaws that have been amended by DEFRA. The draft byelaws are shown in Appendix A.

2.2 Legislation

2.2.1 Finance Bill

Red Diesel. Data has been provided to ADA who have been lobbying HM Treasury over the imposition to use white diesel for all IDB activities. The current position is that it is very unlikely that an exemption will be given to our industry and that the Board will have to review its options when setting future budgets.

2.3 Environment Agency – Draft Flood Risk Management Plans

Environment Agency have published their draft Flood Risk Management Plans for public consultation, which is open for three months.

FRMPs are strategic plans that set out how to manage flood risk in nationally identified flood risk areas (FRAs) for the period 2021-2027, and are statutory plans required by the Flood Risk Regulations 2009.

<https://consult.environment-agency.gov.uk/fcrm/draft-second-cycle-flood-risk-management-plans/>

2.4 ADA

Climate and Carbon Reduction – Under an ADA Committee workstream, ADA is already working on two aspects of support for IDBs (see below). These are both part of ADA's agreed contribution towards the National FCERM Strategy Action Plan:

1. By December 2021, ADA will publish a carbon calculator for IDBs' routine operational activities, which are managing flood risk and water levels. This will contribute to the UK's ambition of achieving net zero by 2050.
2. By August 2022, ADA will publish a guide to carbon reduction and climate resilience techniques for water level management in lowland pumped catchments.

2.5 Co-Option of Board Member

The Board have been approached by Mr Paul Edwards of 2 Mandarin Walk, off Silkmore Crescent, Stafford, ST17 4JT. He has provided the following brief summary.

'I can confirm I own approximately 13 acres and shall provide some supporting info around myself. I hold a senior sales role within Finning / Caterpillar, providing earthmoving equipment, which has been my employer for 15 years. Aside from this I am a Director of and run two property companies, renting HMOs and developing by way of refurbishment. Outside of work I have an interest in conservation and wildlife, purchasing this land primarily to protect it from newbuild development which has begun to intrude on the local area, but also to realize a desire to own some livestock and provide more of an outdoor lifestyle for my wife and daughter.'

2.6 Board Key Performance Indicators

SOW & PENK INTERNAL DRAINAGE BOARD	Key Performance Indicators		Inadequate	Work to be done	Adquate	Good	Very good
	Management of the Board	Compliance with Audit Requirements					
		Health & Safety					
		Partnership working					
		Overall					
	Reduction of waterlogging & flood risk to assets	Asset Management					
		Flood Risk Management Strategy					
		Flooding - Learning Outcomes					
		Overall					
	Environment	Water Framework Directive					
		Invasive Species/Designated Sites					
		Conservation & Biodiversity					
		Biodiversity Action Plan					
		Overall					
	Supporting	Financial Statements					
		Receipt of Drainage Rates					
		Governance Documentation					
		Overall					
	Overall Performance						

3. Financial Report

Recommendation:

- To note the information contained in this report
- To approve the schedule of payments

3.1 Rating Report

Details of the Rates and Special Levies issued, and payments received up to and including 1 November 2021: -

	£	£
Balance Brought forward as at: 1 April 2021		801.13
2021/2022 Drainage Rates and Special Levies		
Drainage Rates		11,371.25
Special Levies		
Stafford Borough Council	108,979.00	
South Staffordshire District Council	3,873.00	112,852.00
Total Drainage Rates Due		<u>125,024.38</u>
Less Paid: -		
Drainage Rates		10,343.17
Special Levies		
Stafford Borough Council	54,489.50	
South Staffordshire District Council	3,873.00	58,362.50
Total Drainage Rates Paid		<u>68,705.67</u>
Balance Outstanding as at: 1 November 2021		<u>56,318.71</u>

3.2 Schedule of Payments

Payments made since those reported at the previous meeting:

DATE		REF	PAYEE	DESCRIPTION	TOTAL	
					£	
2021						
Apr	26th	-	Lloyds Bank plc	Bank Fees	0.60	*
	30th	-	Lloyds Bank plc	Bank Fees	1.80	*
May	4th	-	Lloyds Bank plc	Lloyds Commercial Fees	50.60	*
May	12th	1	Towergate Insurance	Insurances	3,396.13	
		2	JBA Consulting	Management Services	5,309.06	
	13th	4	EVO Payments International	Cardnet Fees	54.10	*
	24th	-	Lloyds Bank plc	Bank Fees	1.20	*
	28th	-	Lloyds Bank plc	Bank Fees	16.52	*
Jun	4th	-	Lloyds Bank plc	Lloyds Commercial Fees	50.00	*
	11th	7	EVO Payments International	Cardnet Fees	52.67	*
	28th	-	Lloyds Bank plc	Bank Fees	11.11	*
	30th	3	Brodericks GBC	Internal Audit Fee 2020/21	798.00	*
Jul	5th	-	Lloyds Bank plc	Lloyds Commercial Fees	50.60	*
	12th	11	EVO Payments International	Cardnet Fees	61.89	*
	14th	5	Environment Agency	Flood Defence Levy	4,317.50	
		6	JBA Consulting	Management Services	5,397.07	
	23rd	-	Lloyds Bank plc	Bank Fees	2.40	*
	30th	-	Lloyds Bank plc	Bank Fees	7.56	*
Aug	2nd	-	Lloyds Bank plc	Lloyds Commercial Fees	50.30	*
	11th	12	EVO Payments International	Cardnet Fees	19.32	*
	23rd	-	Lloyds Bank plc	Bank Fees	1.20	*
	31st	-	Lloyds Bank plc	Bank Fees	3.10	*
Sep	3rd	-	Lloyds Bank plc	Lloyds Commercial Fees	50.60	*
	10th	13	EVO Payments International	Cardnet Fees	22.13	*
	15th	8-9	Littlehales Plant Hire Ltd	Maintenance - Silkmore Lane, etc.	900.00	*
	24th	-	Lloyds Bank plc	Bank Fees	1.50	*
	28th	-	Lloyds Bank plc	Bank Fees	1.30	*
Oct	4th	-	Lloyds Bank plc	Lloyds Commercial Fees	50.00	*
	5th	-	Lloyds Bank plc	Bank Fees	1.50	*
	12th	-	EVO Payments International	Cardnet Fees	92.82	*
	21st	15	Environment Agency	Flood Defence Levy	2,158.75	
		16	JBA Consulting	Management Services	5,277.07	
		14	Littlehales Plant Hire Ltd	Maintenance	46,649.70	
		10	PKF Littlejohn	External Audit Fee 2020/21	480.00	
			Total Amount of all Payments		75,338.10	
			* Total Amount of Cheques sent out signed by the Clerk Only		2,352.82	

3.3 Audit

3.3.1 Internal Audit

Nothing to report.

3.3.2 External Audit

The External Audit for 2020/21 is complete with no issues giving cause for concern that relevant legislation and regulatory requirements have not been met. A copy of the AGAR can be viewed at:

<https://www.shiregroup-idbs.gov.uk/idbs/sow-penk/asset-management/financial-documents/annual-return/>

3.3.3 Internal Audit Review Meeting

The Internal Audit Review meeting is due to take place on Monday, 22 November 2021 and will commence at 10.00am. It is expected to be a virtual meeting.

3.4 Budget Comparison for the Year Ending 31 March 2022

	2021/22				2021/22	
Approved		Actual				
Estimate		Todate		02 November 2021		
£	£	£	£			
				INCOME		
				Drainage Rates on Agricultural Land:-		
11,342		10,278		6.65p in £ on AV of £170,552	90.62%	
				Special Levy:-		
				Stafford Borough Council		
108,979		54,490		6.65p in £ on AV of £1,638,785	50.00%	
				South Staffs District Council		
3,873		3,873		6.65p in £ on AV of £58,240	100.00%	
0		0		EA Grant - Catchment Modelling	0.00%	
300	124,494	100	68,740	Consents, Interest etc	33.33%	55.22%
				EXPENDITURE		
8,900		6,476		Flood Defence Levy	72.77%	
3,000		0		Biodiversity Action Plan	0.00%	
3,000		0		County Show	0.00%	
81,681		39,625		Maintenance	48.51%	
26,591	123,172	12,704	58,805	Administration	47.78%	47.74%
	1,322		9,935	Surplus - (Deficit)	751.50%	
	85,872		84,088	Balance Brought Forward	97.92%	
	6,000		0	Transfer to Doxey & Tillington Marshes SSSI WLMP ACC		
	81,194		94,023	Balance Carried Forward	115.80%	

3.5 Five Year Budget Estimate

Sow And Penk IDB	0	0	1	2	3	4	5
Revenue Account	2021/22	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
	Approved Budget	Estimated Out Turn					
	£	£	£	£	£	£	£
Income							
Drainage Rates	11,342	11,342	11,512	11,939	12,365	12,791	13,218
Special Levies	112,852	112,852	114,549	118,792	123,034	127,277	131,519
Grant In Aid- Catchment Modelling	-	-	-	-	-	-	-
Bank Interest, Other Contributions	300	300	350	350	350	400	400
Total Income	124,494	124,494	126,411	131,080	135,749	140,468	145,137
Expenditure							
Flood Defence Levy	8,900	8,635	8,900	8,900	9,167	9,167	9,167
Administration	26,591	25,471	25,726	25,983	26,243	26,505	26,770
Maintenance of Drains	75,269	75,269	77,527	79,853	82,249	84,716	87,258
Additional Maintenance	6,412	6,412	6,604	6,802	7,006	7,216	7,433
Catchment Modelling	-	-	-	-	-	-	-
Penkridge Modelling Assessment	-	-	-	-	-	-	-
Biodiversity Action Plan	3,000	3,000	3,000	3,000	3,090	3,183	3,278
County Show Budget	3,000	-	3,000	2,500	2,500	2,500	1,000
Cont To Derrington							
Total Expenditure	123,172	118,787	124,757	127,038	130,255	133,288	134,906
Surplus/(Deficit)	1,322	5,707	1,654	4,042	5,495	7,181	10,231
Balance Brought Forward	85,872	84,402	84,109	79,763	77,805	77,299	78,480
Balance	87,194	90,109	85,763	83,805	83,299	84,480	88,711
Transfer to Doxey & Till Marshes Account	6,000	6,000	6,000	6,000	6,000	6,000	6,000
Balance Carried Forward	81,194	84,109	79,763	77,805	77,299	78,480	82,711
Doxey & Tillington Marshes Acc	72,155	72,196	76,996	81,816	86,636	91,456	96,276
Penny Rate in £	6.65p	6.65p	6.75p	7.00p	7.25p	7.50p	7.75p
Penny Rate £18,245	63%	62%	61%	58%	57%	56%	59%

4. Engineer's Report

Recommendation(s):

- To note the information contained in this report
- Board agreement to maintain Silkmore Crescent Drain (Item 4.1.2)

4.1 Asset Management

4.1.1 Hydraulic Modelling

The Environment Agency are calibrating and finalising their Main River model with the IDB modelling inputs.

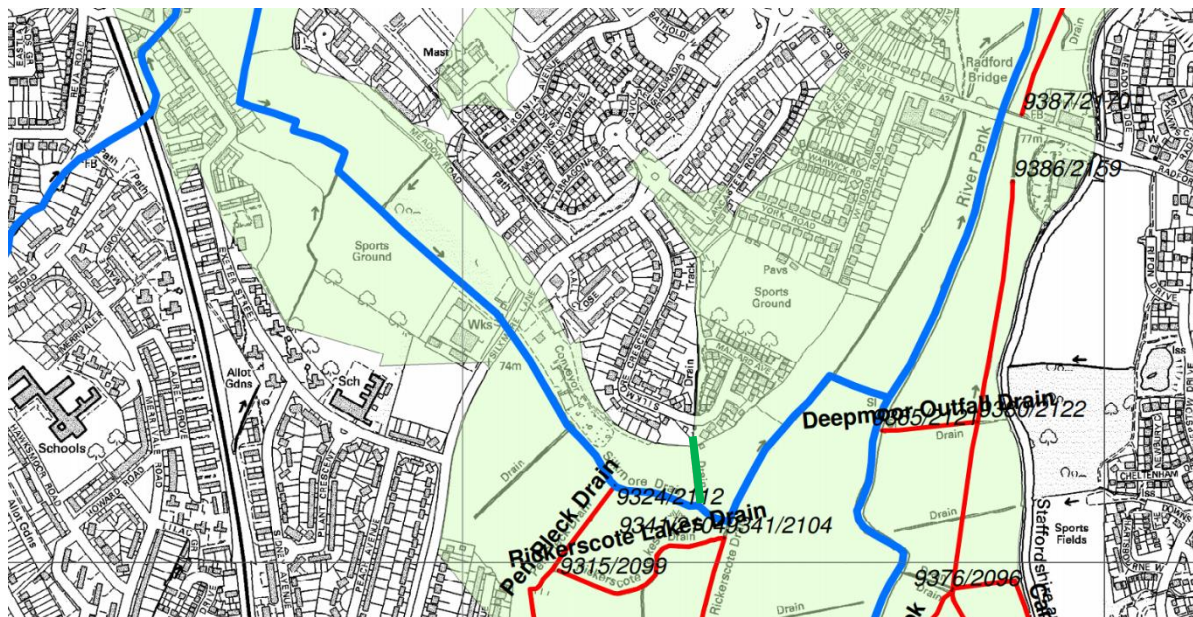
We have also asked to renew the PCSA with the EA to consider any future Main River maintenance in the District.

4.1.2 Ordinary Watercourses

Planned ordinary watercourse maintenance is 75% complete with no known issues or complaints.

Silkmore Crescent Drain

Additional maintenance has been undertaken on an ordinary watercourse within the District downstream of Silkmore Crescent (shown in dark green below).



The EA and LLFA contacted IDB Officers in response to flooding around No.70 Silkmore Crescent. The watercourse had not been maintained by riparian owners for a number of years and the land has recently changed ownership. The IDB Contractor has liaised with the new owner occupier of the watercourse and reconditioning maintenance has now been completed to endeavour to provide a free flow of water from the Silkmore Crescent Estate into Main River 'Rising Brook'. County Council Highways plan to jet / check on the Silkmore Crescent road culvert asap.



The intention is to include this watercourse within the annual ordinary watercourse maintenance from this point forwards.

However, upstream (north) of the maintained watercourse there appears to have been infilling of the original watercourse over time or during past development. This now requires further investigation with the LFFA and County Council as the IDB Drainage District line forms a boundary with the watercourse.



We would like to express our sincere thanks to the Environment Agency, County Council, Littlehales Plant Hire Ltd. and owner occupier for all the assistance in endeavouring to resolve this matter to date.

4.2 Planning, Consents & Enforcement

4.2.1 Planning Applications

Our email address for planning enquiries is planning@shiregroup-idbs.gov.uk

Officers have reviewed planning applications between May 2021 and October 2021, of which 3 have required comment on behalf of the Board.

4.2.2 Land Drainage Act 1991 Section 23 and 66 (Byelaw) Consents

Our email address for consent applications is consents@shiregroup-idbs.gov.uk

No consent applications have been received by the Board between May 2021 and October 2021.

5. Health and Safety Report

Recommendation:

- Members note information contained in the Report

5.1 Accidents, Incidents and near misses

No accidents, incidents or near misses to report.

5.2 COVID-19

As the country slowly comes out of the lockdown restrictions, the Board's day to day activities remain virtually unaffected.

6. Environmental Adviser's Report

Recommendation:

- Members note information contained in the Report
- Approve Quotation for repairs to footpath at Doxey Marshes SSSI

6.1 Legislation

Nothing to Report.

6.2 Policy

Nothing to Report.

6.3 Doxey & Tillington Marshes SSSI

The Board have received a request, from Staffordshire Wildlife Trust, to use the SSSI account to fund some much need maintenance works.

Doxey Marshes, rebuild path To lay concrete sleepers across the road/path at Doxey Marshes to prevent the erosion. The ground will be dug out to enable the concrete sleepers to be on the top of the sheet piles. 40mm limestone will be used to fill up the sides and ramp each end of the path

Price inclusive of labour, materials, machinery and installation £3,389.00

VAT @ 20% £ 677.80

Total £ 4,266.80

6.4 Biodiversity Action Plan

Staffordshire Wildlife Trust have also contacted the Environmental Officer regarding the biodiversity survey for next year. SWT would like to do some vegetation surveys along IDB watercourses which will be inside the Stafford Brooks project area. This has been agreed and SWT have been asked specifically to tie in the survey to the Board's targets, shown below.



Drains and Ditches	1	Maintain and enhance the existing habitat and species diversity of watercourses within the drainage district	1.1	Ensure the appropriate management of the IDB watercourses through an integrated Biodiversity Action Plan and Maintenance regime	through life of plan	Production of plan	Upon completion
			1.2	Identify and assess potential impacts of all new discharges into IDB maintained waterways	through life of plan	No. of consents assessed	Annually
			1.4	Review all applications for "Consent for works affecting IDB watercourses" to ensure minimal environmental impacts on the aquatic habitats	through life of plan	No of consents assessed	Annually
	2	Control of non-native invasive species along and in IDB maintained waterways	2.1	Record and report all INNS to GB Non Native Species secretariat	through life of plan	Length (m) watercourse surveyed	Annually
			2.2	Trapping and removal of Signal Crayfish from Board maintained watercourses	through life of plan	No. of crayfish captured and removed	Annually

Otter	5	Maintain and enhance suitable habitat for Otter in the drainage district	5.1	Assess existing habitat suitability for Otter in district	Ongoing	Length (m) assessed	2020
			5.2	Work with landowners to improve the riparian habitat for Otter (eg reduction in poaching at cattle drinking places)	Ongoing	No of landowners advised	Annually
			5.3	Ensure maintenance and improvement works take into account the needs of Otters, retaining features such as trees, scrub, and overhanging root systems	Ongoing	No of features retained	Annually
	6	Encourage the fencing-off of watercourses to prevent damage to the banks/in-stream habitats by cattle	6.1	Provide training to IDB contractors on legislation pertaining to Otter and their habitat	Ongoing	No of staff trained	2020
			6.2	Ensure surveys for Otter activity are conducted prior to any bank improvement, drainage or other engineering works	Ongoing	No of surveys	Annually
	7	Monitor Otter activity within the drainage district	7.1	Collate records of Otter activity to establish a baseline data set for this species	Ongoing	No of records	Annually
			7.2	Submit all Otter records from the drainage district Staffordshire Ecological Records Centre	Ongoing	No of records	Annually

7. Any Other Business

8. Date of Next Meetings

9 February 2022
30 June 2022
16 November 2022

9. APPENDIX A – IDB Byelaws

The draft byelaws can be found over the following pages.

**LAND DRAINAGE BYELAWS
SOW & PENK INTERNAL DRAINAG BOARD**

INDEX

Preamble

1. Commencement of Byelaws
2. Application of Byelaws
3. Control of Introduction of Water and Increase in Flow or Volume of Water
4. Control of Sluices etc
5. Fishing Nets and Angling
6. Diversion or Stopping up of Watercourses
7. Detrimental Substances not to be Put into Watercourses
8. Lighting of Fires
9. Notice to Cut Vegetation
10. No Obstructions within 9 Metres of the Edge of the Watercourse
11. Repairs to Buildings
12. Control of Vermin
13. Damage by Animals to Banks
14. Vehicles not to be Driven on Banks
15. Banks not to be Used for Storage
16. Not to Dredge or Raise Gravel, Sand etc
17. Fences, Excavations, Pipes etc
18. Interference with Sluices
19. Mooring of Vessels
20. Unattended Vessels
21. Removal of Sunken Vessels
22. Navigation of Vessels
23. Damage to Property of the Board
24. Defacement of Notice Boards
25. Obstruction of the Board and Officers
26. Savings for Other Bodies
27. Saving for Crown Lands
28. Arbitration
29. Notices
30. Limitation
31. Revocation
32. Interpretation

Common Seal
Penalty Note

Amended November 2021

SOW& PENK INTERNAL DRAINAGE BOARD BYELAWS

The Sow & Penk Internal Drainage Board (“the Board”) under and by virtue of the powers and authority vested in them by section 66 of the Land Drainage Act 1991, do hereby make the following Byelaws which are considered necessary for [one or more of] the following purposes:-

- a) securing the efficient working of the drainage system in their District,
- b) regulating the effects on the environment in the Board’s district of a drainage system, or
- c) securing the effectiveness of flood risk management work within the meaning of section 14A of the Act,

together, “the Purposes”;-

1. Commencement of Byelaws

These Byelaws shall come into operation at the expiration of one month beginning with the day on which they are confirmed by the Secretary of State.

2. Application of Byelaws

- (a) These Byelaws shall have effect within the District;
- (b) the watercourses referred to in these Byelaws are watercourses and drainage works which are for the time being vested in or under the control of the Board.

3. Control of Introduction of Water and Increase in Flow or Volume of Water

No person shall for any purpose, including as a result of development (within the meaning of section 55 of the Town and Country Planning Act 1990 as amended (“the 1990 Act”)) (whether or not such development is authorised by the 1990 Act or any regulation or order whatsoever or none of them) by means of any channel, siphon, pipeline or sluice or by any other means whatsoever introduce any water into any watercourse in the District [Area] so as to directly or indirectly increase the flow or volume of water in any watercourse in the District [Area] (without the previous consent of the Board).”

4. Control of Sluices etc

Any person having control of any sluice, water control structure or appliance for introducing water into any watercourse in the District or for controlling or regulating or affecting the flow of water in, into or out of any watercourse shall use and maintain such sluice, water control structure or appliance in accordance with such reasonable directions as may from time to time be given by the Board with a view to securing or furthering one or more of the Purposes.

5. Fishing Nets and Angling

No person shall angle or set any nets or engines for the catching or keeping of fish in any watercourse in such a manner as to cause damage to or endanger the stability of the bank of the watercourse or to affect or impede the flow of water.

In this Byelaw “nets” includes -

- (a) a stake net, bag net or keep net;
- (b) any net secured by anchors and any net, or other implement for taking fish, fixed to the soil or made stationary in any other way;
- (c) any net placed or suspended in any inland or tidal waters unattended by the owner or a person duly authorised by the owner to use it for fish, and any engine, device, machine or contrivance, whether floating or otherwise, for placing or suspending such a net or maintaining it in working order or making it stationary.

6. **Diversion or Stopping up of Watercourses**

No person shall, without the previous consent of the Board, take any action, or knowingly permit or aid or abet any person to take any action to stop up any watercourse or divert or impede or alter the level of or direction of the flow of water in, into or out of any watercourse.

7. **Detrimental Substances not to be Put into Watercourses**

No person shall, so as directly or indirectly to obstruct, impede or interfere with the flow of water in, into or out of any watercourse or so as to damage the bank -

- (a) discharge or put or cause or permit to be discharged or put or negligently or wilfully cause or permit to fall into any watercourse any object or matter of any kind whatsoever whether solid or liquid;
- (b) allow any such object or matter as is referred to in sub-paragraph (a) of this Byelaw to remain in proximity to any watercourse in such manner as to render the same liable to drift or fall or be carried into any watercourse.

Provided that nothing in this Byelaw shall be deemed to render unlawful the growing or harvesting of crops in accordance with normal agricultural practice.

8. **Lighting of Fires**

No person shall light or cause or permit to be lighted or commit any action liable to cause to be lighted any fire on any land adjoining the watercourse where such action is liable to set on fire the peat land forming the banks of the watercourse or any vegetation including trees, growing on land forming the banks of the watercourse.

9. **Notice to Cut Vegetation**

Any person having control of any watercourse shall, upon the receipt of a notice served on him by the Board requiring him so to do, cut down and keep cut down all vegetation, including trees, growing in or on the bank of a watercourse, within such reasonable time as may be specified in the notice, and shall remove such vegetation including trees, from the watercourse immediately after the cutting thereof.

Provided that, where a hedge is growing on the bank of a watercourse, nothing in this Byelaw shall require more than the pruning of the hedge so as to prevent it from growing over or into the watercourse, and the removal of the resultant cuttings.

10. **No Obstructions within 9 Metres of the Edge of the Watercourse**

No person without the previous consent of the Board shall erect any building or structure (including a fence), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the landward toe of the bank where there is an embankment or wall or within 9 metres of the top of the batter where there is no embankment or wall, or where the watercourse is enclosed within 9 metres of the enclosing structure.

11. **Repairs to Buildings**

The owner of any building or structure in or over a watercourse or on the banks thereof shall, upon receipt of a notice from the Board that because of its state of disrepair -

- (a) the building or structure is causing or is in imminent danger of causing an obstruction to the flow of the watercourse, or
- (b) the building or structure is causing or is in imminent danger of causing damage to the bank of the watercourse,

carry out such reasonable and practicable works as are specified in the notice for the purpose of remedying or preventing the obstruction or damage as the case may be within such reasonable time as is specified in the notice.

12. **Control of Vermin**

The occupier of any bank of a watercourse or any part thereof shall, upon being required by the Board by notice, within such reasonable time as may therein be specified, take such steps as are specified in the notice, being such steps as the Board consider necessary and practicable for preventing the bank from becoming infested by rabbits, rats, coypu, foxes and moles or any other wild mammal not being an animal listed in Schedule 5 or Schedule 6 to the Wildlife and Countryside Act 1981, but excluding the water vole from such control.

13. **Damage by Animals to Banks**

All persons using or causing or permitting to be used any bank of any watercourse for the purpose of grazing or keeping any animal thereon shall take such steps including fencing as are necessary and reasonably practicable and shall comply with such reasonable directions as may from time to time be given by the Board to prevent the bank or the channel of the watercourse from being damaged by such use.

Provided that nothing in this Byelaw shall be deemed to affect or prevent the use of, for the purpose of enabling animals to drink at it, any place made or to be made or constructed as approved by the Board.

14. **Vehicles not to be Driven on Banks**

No person shall use or drive or permit or cause to be used or driven any cart, vehicle or implement of any kind whatsoever on, over or along any bank of a watercourse in such manner as to cause damage to such bank.

15. **Banks not to be Used for Storage**

No person shall use or cause or permit to be used any bank of any watercourse for the purpose of depositing or stacking or storing or keeping any rubbish or goods or any material or things thereon in such a manner as by reason of the weight, volume or nature of such rubbish, goods, material or things causes or is likely to cause damage to or endanger the stability of the bank or channel of the watercourse or interfere with the operations or access of the Board or the right of the Board to deposit spoil on the bank of the watercourse.

16. **Not to Dredge or Raise Gravel, Sand etc**

No person shall without the previous consent of the Board dredge or raise or take or cause or permit to be dredged or raised or taken any gravel, sand, ballast, clay or other material from the bed or bank of any watercourse.

17. **Fences, Excavations, Pipes etc**

No person shall without the previous consent of the Board -

- (a) place or affix or cause or permit to be placed or affixed any gas or water main or any pipe or appliance whatsoever or any electrical main or cable or wire in, under or over any watercourse or in, over or through any bank of any watercourse;
- (b) cut, pare, damage or remove or cause or permit to be cut, pared, damaged or removed any turf forming part of any bank of any watercourse, or dig for or remove or cause or permit to be dug for or removed any stone, gravel, clay, earth, timber or other material whatsoever forming part of any bank of any watercourse or do or cause or permit to be done anything in, to or upon such bank or any land adjoining such bank of such a nature as to cause damage to or endanger the stability of the bank;
- (c) make or cut or cause or permit to be made or cut any excavation or any tunnel or any drain, culvert or other passage for water in, into or out of any watercourse or in or through any bank of any watercourse;
- (d) erect or construct or cause or permit to be erected or constructed any fence, post, pylon, wall, wharf, jetty, pier, quay, bridge, loading stage, piling, groyne, revetment or any other building or structure whatsoever in, over or across any watercourse or in or on any bank thereof;
- (e) place or fix or cause or permit to be placed or fixed any engine or mechanical contrivance whatsoever in, under or over any watercourse or in, over or on any bank of any watercourse in such a manner or for such length of time as to cause damage to the watercourse or banks thereof or obstruct the flow of water in, into or out of such watercourse.

Provided that this Byelaw shall not apply to any temporary work executed in an emergency but a person executing any work so excepted shall, as soon as practicable, inform the Board in writing of the execution and of the circumstances in which it was executed and comply with any reasonable directions the Board may give with regard thereto.

18. **Interference with Sluices**

No person shall without lawful authority interfere with any sluice, or other water control structure or appliance for controlling or regulating the flow of water in, into or out of a watercourse.

19. **Mooring of Vessels**

No person shall moor or place any vessel in any watercourse or to or upon the bank of any watercourse in such manner or by such method as to cause or be likely to cause injury to such bank or in such manner as materially to obstruct or impede the free flow of water in, into or out of any watercourse.

20. **Unattended Vessels**

No person shall leave any vessel unattended without taking due care to prevent such vessel from materially obstructing or impeding the free flow of water in, into or out of any watercourse or any sluice in any bank.

21. **Removal of Sunken Vessels**

No person who is the owner of a vessel sunk, stranded, damaged or adrift in a watercourse or, in the case of a sunken vessel which is abandoned, who was the owner immediately before the abandonment shall, after ten days from the day on which the Board serves on him notice in writing that the vessel is causing obstruction, permit the vessel to remain in the watercourse in such a manner as to impede or harmfully divert the flow of water in, into or out of the watercourse.

22. **Navigation of Vessels**

No person shall navigate any vessels in such a manner or at such a speed as to injure the bank of any watercourse and where the Board have by notice erected at any place limited the speed of vessels passing such place no person shall navigate a vessel at a speed over the bed of the watercourse greater than the speed so limited.

Provided that the Board shall not exercise their powers under this Byelaw so as to limit the speed of -

- (a) vessels in any tidal waters except after consultation with the Department for Transport, or
- (b) vessels navigating waterways of the Canal and River Trust for which speed limits are prescribed by the Byelaws of such Trust.

23. **Damage to Property of the Board**

No person shall interfere with or damage any bank, bridge, building, structure, appliance or other property of or under the control of the Board.

24. **Defacement of Notice Boards**

No person shall deface or remove any notice board, notice or placard put up by the Board.

25. **Obstruction of the Board and Officers**

No person shall obstruct or interfere with any member, officer, agent or servant of the Board exercising any of his functions under the Act or these Byelaws.

26. **Savings for Other Bodies**

Nothing in these Byelaws shall -

- (a) conflict with or interfere with the operation of any Byelaw made by the Environment Agency or of any navigation, harbour, conservancy or local authority but no person shall be liable to more than one penalty or in the case of a continuing offence more than one daily penalty in respect of the same offence;
- (b) restrict, prevent, interfere with or prejudice the exercise of any statutory rights or powers which are now or hereafter may be vested in or exercised by -
 - (i) any public utility undertaking carried on by a local authority under any Act or under any Order having the force of an Act;
 - (ii) the undertakings of the Environment Agency and of any water undertaker or sewerage undertaker;
 - (iii) any public gas transporter within the meaning of part I of the Gas Act 1986;
 - (iv) any navigation, harbour or conservancy authority;
 - (v) any person who acts as the operator of a relevant railway asset, with respect to the construction, use or maintenance and repair of any such asset, or the free, uninterrupted and safe use of any such asset and the traffic (including passengers) thereof;
 - (vi) any local authority;
 - (vii) any highway authority for the purposes of the Highways Act 1980 (as amended by any subsequent enactment) in relation to any highway whether or not maintainable at public expense;
 - (viii) any undertaking engaged in the operation of a telecommunications system;
 - (ix) a relevant airport operator within the meaning of Part V of the Airports Act 1986;
 - (x) the Civil Aviation Authority and any subsidiary thereof;
 - (xi) the Canal and River Trust;
 - (xii) the Coal Authority;
- (c) restrict, prevent, interfere with or prejudice any right of a highway authority to introduce into any watercourse surface water from a highway, for which it is the highway authority;

- (d) restrict, prevent, interfere with or prejudice any right of a licence holder within the meaning of Part I of the Electricity Act 1989 to do anything authorised by that licence or anything reasonably necessary for that purpose;
- (e) affect any liability arising otherwise than under or by reason of these Byelaws.

27. **Saving for Crown Lands**

Nothing in these Byelaws shall operate to prevent the removal of any substance on, in or under (or the erection of any structure, building or machinery or any cable, wire or pipe on, over or under) lands belonging to Her Majesty in right of the Crown by any person thereunto authorised by the Crown Estate Commissioners.

28. **Arbitration**

- (a) Where by or under any of these Byelaws any person is required by a notice in writing given by the Board to do any work to the satisfaction of the Board or to comply with any directions of the Board, he may within 21 days after the service of such notice on him give to the Board a counter-notice in writing objecting to either the reasonableness of or the necessity for such requirement or directions, and in default of agreement between such person and the Board the dispute shall, when the person upon whom such notice was served is a drainage or local authority be referred to the Secretary of State whose decision shall be final, and in any other case shall be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party. Where such a counter-notice has been given to the Board the operation of the notice shall be suspended until either agreement has been reached or the dispute has been determined by arbitration in accordance with the provisions of this Byelaw;
- (b) where by or under these Byelaws any person is required by a notice in writing given by the Board to do any work to the satisfaction of the Board or to comply with any directions of the Board and any dispute subsequently arises as to whether such work has been executed or such directions have been complied with, such dispute if it arises between a drainage authority or local authority and the Board shall be referred to the Secretary of State whose decision shall be final, and in any other case shall be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party;
- (c) where by or under Byelaws 3, 6, 10, 16 or 17 any person is required to refrain from doing any act without the consent of the Board such consent shall not be unreasonably withheld and may be either unconditional or subject to such reasonable conditions as the Board may consider appropriate and where any dispute arises as to whether in such a case the consent of the Board is being unreasonably withheld, or as to whether any conditions subject to which consent is granted are unreasonable, such dispute shall if it arises between a drainage authority or local authority and the Board be referred to the Secretary of State whose decision shall be final, and in any other case such dispute shall be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party.

29. **Notices**

Notices and any other documents required or authorised to be served or given under or by virtue of these Byelaws shall be served or given in the manner prescribed by section 71 of the Act.

30. **Limitation**

- (a) Nothing in these Byelaws shall authorise the Board to require any person to do any act, the doing of which is not necessary for securing or furthering one or more of the Purposes or to refrain from doing any act, the doing of which does not affect the environment or adversely affect either the efficient working of the drainage system of the District or the effectiveness of flood risk management within the District.
- (b) If any conflict arises between these Byelaws and
 - (i) sections 61A to E of the Land Drainage Act 1991 (which relates to the Board's duties with respect to the environment), or
 - (ii) the Conservation of Habitats and Species Regulations 2017, as amended¹the said Act and the said Regulations shall prevail.

31. **Revocation**

The Byelaws made by the Board on the 27th day of June 2011 are hereby revoked.

32. **Interpretation**

In these Byelaws, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say:-

"the Act" means the Land Drainage Act 1991;

"Animal" includes any horse, cattle, sheep, deer, goat, swine, goose or poultry;

"Bank" includes any bank, cross bank, wall or embankment adjoining or confining or constructed for the purpose of or in connection with any watercourse and includes all land between the bank and the low water mark or level of the water in the watercourse as the case may be and where there is no such bank, cross bank, wall or embankment includes the top edge of the batter enclosing the watercourse;

"Board" means the Sow & Penk Internal Drainage Board;

"Consent of the Board" means the consent of the Board in writing signed by the Clerk for the time being of the Board or other duly authorised officer;

"District" means the area under the jurisdiction of the Board;

¹ SI 2017/1012

"Occupier" means in the case of land not occupied by any tenant or other person the person entitled to the occupation thereof;

"Owner" includes the person defined as such in the Public Health Act 1936;

"Relevant Railway Asset" means

(a) a network, operated by an "approved operator" within the meaning of section 25 of the Planning Act 2008,

(b) a station which is operated in connection with the provision of railway services on such a network,

or

(c) a light maintenance depot

Expressions used in this definition and in the Railways Act 1993 have the same meaning in this definition as they have in that Act,("railway" not having its wider meaning) and a network such as is described in (a) above shall not cease to be such a network where it is modified by virtue of having any network added to it or removed from it.

"The Secretary of State" means the Secretary of State for Environment, Food and Rural Affairs;

"Vegetation" means trees, willows, shrubs, weeds, grasses, reeds, rushes or other vegetable growths;

"Vessel" includes any ship, hovercraft (as defined by the Hovercraft Act 1968), lighter, keel, barge, tug, launch, houseboat, pleasure or other boat, aircraft, randan, wherry, skiff, dinghy, shallop, punt, yacht, canoe, raft, float of timber or any other craft whatsoever, and howsoever worked, navigated or propelled;

"Water control structures" means a structure or appliance for introducing water into any watercourse and for controlling or regulating or affecting flow, and includes any sluice, slacker, floodgate, lock, weir, pump or pumping machinery;

and other expressions shall have the same meanings as in the Act.

THE COMMON SEAL OF THE

**SOW & PENK INTERNAL DRAINAGE BOARD was hereunto affixed on the 17 November
2021**

in the presence of:

Chairman

Clerk

PENALTY NOTE

By section 66(6) of the Land Drainage Act 1991 every person who acts in contravention of or fails to comply with any of the foregoing Byelaws is liable on summary conviction in respect of each offence

to a fine not exceeding the amount prescribed from time to time for level 5 on the standard scale referred to in section 122 of the Sentencing Act 2020 and a further fine not exceeding Forty pounds for every day on which the contravention or failure is continued after conviction. By section 66(7) of the Act if any person acts in contravention of or fails to comply with any of these Byelaws the Board may without prejudice to any proceedings under section 66(6) of the Act take such action as may be necessary to remedy the effect of the contravention or failure and may recover the expenses reasonably incurred by it in doing so from the person in default.

(N.B. This note may accompany the Byelaws, but is not part of them)

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