

Somerset Rivers Authority (SRA) Board Meeting – 11 September 2020

THE SOMERSET RIVERS AUTHORITY BOARD

Draft minutes of the Board meeting of Somerset Rivers Authority held on Microsoft Teams on Friday 11 September 2020 at 10.00am.

PRESENT:

Ray Adlam (Axe Brue Internal Drainage Board)
Emma Baker (Environment Agency)
Cllr Robin Bastable (South Somerset District Council)
Tony Bradford – Vice-Chair (Parrett Internal Drainage Board)
Cllr Mike Caswell (Sedgemoor District Council)
Jeff Fear (Axe Brue Internal Drainage Board)
Cllr David Hall – Chair (Somerset County Council)
Matthew Heard (Natural England)
David Jenkins (Wessex Regional Flood & Coastal Committee)
Cllr Matt Martin (Mendip District Council)
Cllr Sarah Wakefield (Somerset West and Taunton Council)

IN ATTENDANCE:

Roger Burge (Somerset Drainage Boards Consortium)

Cllr Norman Cavill (Somerset West and Taunton Council)

Rebecca Hall (Somerset County

Jonathan Hudston (Somerset Rivers Authority)

David Mitchell (Somerset Rivers Authority)

John Rowlands (Environment Agency)

Martin Woods (South Somerset District Council)

APOLOGIES:

Cllr Mike Stanton (South Somerset District Council)

Rebecca Horsington (Parrett Internal Drainage Board)

Paula Hewitt (Somerset County Council)

Doug Bamsey (Sedgemoor District Council)

Dr Rachel Burden (Environment Agency)

MINUTE TAKER:

Jennie Channing (Somerset Rivers Authority)

1. APOLOGIES FOR ABSENCE

Apologies noted above.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF PREVIOUS MEETING 24 JULY 2020

The minutes were agreed as a true and accurate record of the meeting.

4. PUBLIC QUESTION TIME

No public questions were submitted.

5. RISKS AND ISSUES

David Mitchell, Senior Manager, Somerset Rivers Authority, took his paper as read. He explained the purpose of the paper is to update the Board on progress towards the spending of Heart of the South West Local Enterprise Partnership (LEP) funds by the March 2021 LEP deadline; this deadline is set by central government. He explained that the project teams have been working very hard to meet this deadline. At the time of the January 2020 SRA Board meeting there was confidence that these funds would be used by the deadline. However, delays in finalising preparatory work before starting construction are now making it very difficult to meet this deadline.

Mr Mitchell explained that on table A of his paper, it showed a list of outstanding projects that have LEP funds allocated to them with a forecast of how much of the funds will be claimed by the deadline. The vast majority of funds will be claimed before the March 2021 deadline. However, there are some that are unlikely to be claimed. The amount that is anticipated not to be claimed is £1.085m, this is the worst-case scenario and projects are working hard to complete as much work as possible and reclaim the funding by the deadline.

Mr Mitchell said that despite the best efforts by everyone involved it became clear that it would not be possible to complete all the works on the Sowby/King's Sedgemoor Drain (KSD) Enhancements Scheme by the March 2021 deadline. Although the LEP deadline is the end of March 2021 the deadline for works on this project is the end of October because of environmental constraints limiting when work can be undertaken. There is also the potential for poor weather which will make it impossible to work on site. The advice from the project team is that in order to deliver the project in the most efficient manner letting a 12-month contract is required. This would take the project beyond the LEP deadline. The Environment Agency project team requested approval to proceed with a contract that would go beyond the LEP deadline.

The other projects with significant amounts of LEP money still allocated are Pioneer Dredging projects, Oath to Burrowbridge and Northmoor to M5. The Oath to Burrowbridge dredging project had an initial allocation of £1m of LEP funds; this project came in £175k under budget. It was hoped that these remaining funds would be used towards delivery of the joint mitigation action plan for the Oath to Burrowbridge and Sowby/KSD schemes. It is unlikely that it will be possible to use these funds by the LEP deadline for this purpose. The Northmoor to M5 dredging project is planned to take place in early 2021, however there is still a degree of uncertainty whether this will be possible as not all permissions are currently in place.

Mr Mitchell advised that the most pressing issue was the Sowy/KSD project and the request to let a contract that would take the project beyond the LEP deadline. If the project goes beyond the March 2021 deadline, then any LEP funds could potentially be lost to the project resulting in a project funding shortfall. In order for the project team to let a 12-month contract a request was made to the SRA Chair and Vice-Chair to approve the use of SRA contingency funds to underwrite the potential funding gap. The decision was taken between Board meetings as it was a matter of urgency. The Chair and Vice-Chair approved this request on 28 August 2020. £635k of SRA contingency funds is currently ringfenced to fill the potential funding gap.

Mr Mitchell explained that he will be taking a proposal to the LEP Strategic Investment Panel in early October, which will propose that Somerset County Council (SCC) uses the LEP funding this financial year with equivalent SCC funds then made available to the SRA the following financial year.

- The Chair reassured Board members and members of the public that this is a technicality in the way public finances work with certain funds having to be used by a specific deadline.
- Cllr Robin Bastable, South Somerset District Council, noted that he thinks it is really positive to act to keep the funds available for the project.
- Cllr Bastable asked for further information on what may delay Northmoor to M5 dredging as he understood it is a relatively straightforward process.
- Roger Burge, Somerset Drainage Boards Consortium, provided an update on the Northmoor to M5 dredge. Mr Burge explained that the team are ready to start the dredge, design work has now been completed, an environmental screening exercise has been completed to ensure that the works being undertaken do not require any further environmental mitigation, and contractors are on standby. Mr Burge's view is that the project team are ready to proceed subject to approval by the Environment Agency and Natural England. Mr Burge noted that the project is now beholden to the Environment Agency and Natural England to approve the dredge to start in January.
- Emma Baker, Environment Agency advised that they are unable to consent works without receiving an application. The Environment Agency is standing by ready to assess an application. She advised that the Environment Agency is happy to help the Internal Drainage Board (IDB) to complete any necessary actions to proceed with the project.
- Matthew Heard, Natural England, noted that they have agreement with the IDB regarding what is required for Northmoor to M5 so he does not think there will be any problems. He noted the language used i.e. 'Beholden to environmental bodies'. Mr Heard emphasised that the IDB are not beholden to other SRA partners but all are beholden to the law to deliver legally compliant schemes. As a competent authority the Internal Drainage Board has legal responsibilities to deliver schemes accordingly.
- The Chair emphasised the need for all partners to maintain good communication to overcome any issues.

As recommended, the SRA Board:

1. Noted the latest position in relation to Heart of the South West Local Enterprise Partnership (LEP) Growth Deal funded SRA projects.
2. Noted the actions and the decision taken by the SRA Chair and Vice-Chair between Board meetings to enable the Sowey-King's Sedgemoor Drain Enhancements Scheme to maintain momentum towards construction of Phase 1 of the channel works.

6. KEY PROJECT UPDATES

6a. Pioneer Dredging (Oath to Burrowbridge & Northmoor to M5)

Roger Burge, Somerset Drainage Boards Consortium, took his paper as read. He explained that the re-seeding work and profiling of crest levels referenced in his paper had not yet been completed due to a conflict with an Environment Agency project working in the same area. He said that the Internal Drainage Board are working closely with the Environment Agency to find a suitable time to get onsite to complete the reseeded that would not conflict with the Environment Agency works. The IDB hopes to complete this work by the end of September.

There were no questions from the Board.

As recommended, the SRA Board:

1. Noted that grass seeding and mitigation works on Southlake will commence in September.
2. Noted that monitoring is ongoing to determine whether any further environmental mitigation is required.

6b. Sowey-King's Sedgemoor Drain (KSD) Enhancements Scheme

Dr Rachel Burden, Environment Agency, explained that project delivery remains challenging but good progress has been made. She noted a major milestone had been reached with the Environmental Statement published for its 30-day consultation, with the consultation closing on 13 September. No objections or significant issues had been raised to date, which is very positive. Dr Burden explained that the joint mitigation plan for the Sowey-KSD and Oath to Burrowbridge dredging had been fully agreed between the Environment Agency, Natural England and the IDB, which is also very positive. This represents a joint commitment to deliver short and long-term actions to make sure the projects remain legally compliant. Letters were sent out to all landowners directly affected by the project inviting comments. No issues have been identified to date; if any concerns are raised the Environment Agency will seek the support of the IDB to address them quickly. The project team hope to be on site in the next month to start preliminary work on the riverbanks. The project team is aiming to minimise the amount of works that have to be carried over to the next financial year. Dr Burden thanked the partner organisations for their support over recent months.

- Tony Bradford, Vice-Chair, supported the scheme and everything that needs to be done to complete it. He is concerned that some of the work will have a detrimental effect on landowners outside of the designated areas and this is

not being mitigated by the project. Mr Bradford has met with a member of the Environment Agency outlining his concerns and highlighting further structures that need work which he feels should be addressed as part of the project.

- Dr Burden explained that Mr Bradford has had reassurance from the Environment Agency that the issues raised are being considered. John Rowlands, Environment Agency, explained some of the issues raised are outside of the original scope of the project so will need further investigation but several of them are already due to be improved as part of this project.
- David Jenkins, Wessex Regional Flood & Coastal Committee, explained that he had recently chaired a meeting of project officers to help iron out a few issues linked to the environmental mitigation plan. A particular point that had been made at the meeting was that individual delivery organisations had concerns about risks associated with committing to elements of the mitigation delivery plan that the organisation may not have full control over delivering e.g. where third party landowner agreement is required. He said it is really important that all partners work together with complete openness and transparency. Each of the delivery partners should feel that they are not on their own, and should have the confidence that should any risks materialise they will be addressed by the whole partnership.
- Mr Mitchell asked in what period in the spring work may be possible, and not conflict with environmental requirements. John Rowlands explained it was hard to be precise as many factors will affect this such as how wet the winter period is.
- Mr Bradford was concerned that there were mixed messages as he understood if work cannot be completed this October it would need to wait until October 2021 for environmental reasons. Mr Rowlands explained that with the correct preparatory work now, e.g. cutting back vegetation, then some work may be possible in the spring because, for example, the risk of birds nesting in the vegetation has been removed.

As recommended, the SRA Board:

1. Noted the latest position with the Sowey/King's Sedgemoor Drain Enhancements Scheme.
2. Noted that the Environmental Statement for the project is currently being consulted on and that the consultation will close on 13 September.

7. QUARTER 1 2020-21 SRA FINANCE REPORT

SRA Finance Manager Rebecca Hall took her paper as read. She explained a slight change to how information is now being presented compared to previous quarters. Reporting on Local Partner Funding and LEP funding has now been separated, she said the first section of the paper will focus on Local Partner Funding and the second part LEP Growth Deal Funding.

Ms Hall highlighted some key points from the paper. At the start of the financial year there was just over £8.5m available. She explained that the majority of the funds are already allocated to schemes. The only unallocated funds are contingency funds of £590k. During Q1a total of £225k of claims was received from partners. This is lower than usual due to the impact of Covid-19. Ms Hall said that partners are forecasting they will claim £3.6m from the SRA by the end of this financial year.

Ms Hall said that £264 is being asked for from contingency to fund a small overspend and £45k will be returned to contingency from project underspends. These changes increase contingency from £590k to £635k, this would equal 8% of Local Partner Funds.

On Growth Deal funding, Ms Hall noted that of the original £13.049m allocated, just over £10m has been claimed to the end of Q1.

- Cllr Matt Martin asked whether the money in contingency is used for anything else whilst not being used on SRA projects and if it generates some kind of financial leverage.
- The Chairman explained that as Somerset County Council provided the treasury function to the SRA it can utilise the 'liquid cash' to benefit the public in the short term until such time as the SRA makes use of it.
- Cllr Martin asked if the SRA received the benefit of SRA funds being leveraged in other places? Ms Hall offered to check and respond after the meeting.

As recommended, the SRA Board:

1. Noted the financial performance as at the end of Quarter One 2020-21
2. Approved the re-allocation of contingency as per section two.

8. FLOOD ACTION PLAN REVIEW

Mr Mitchell provided a short verbal update for this item. He advised that this had not been moved forward as he would have liked. A meeting for the Management Group is being organised by Mr Mitchell to discuss the format of each Flood Action Plan workshop. The aim is to start the organisation of the workshops before Christmas.

9. RIPARIAN RESPONSIBILITIES

The Chair, Cllr Hall, introduced the item by advising the Board that this item is in response to a request from the Board at its July meeting to see the SRA do something to raise awareness about riparian responsibilities. Cllr Hall added that since that meeting the Department for the Environment, Food and Rural Affairs (Defra) had published its 'Report of a review for the arrangements for determining

responsibility for surface water and drainage assets', authored by David Jenkins, which makes recommendations in relation to riparian responsibilities.

Jonathan Hudston presented his paper and explained that since the previous Board meeting on 24 July 2020 there was a discussion at the SRA Technical Group about what could be done in response to the Board's request. One suggestion from Technical Group was to try and engage with property owners at key points e.g. when buying a new property. Towards the end of August Mr Jenkins' report was published, which touches on riparian responsibilities. Some of the report recommendations, if implemented, could help the SRA raise awareness. For example, a recommendation for the Environment Agency and local authorities to agree key messages on riparian responsibilities and then publicise these together.

Attention was drawn to Mr Jenkins' finding that there is no duty on a riparian owner to maintain a watercourse to a certain standard. This poses challenges for any awareness-raising campaign as the definition of what is required of a riparian owner regards maintenance is ambiguous, but any communication campaign needs a clear message to be successful.

Mr Hudston said that there are certain things the SRA could consider doing whilst we await the implementation of the recommendations within Mr Jenkins report. For example, publicising the currently available information; producing our own version of the available information; pay people to undertake their riparian responsibilities e.g. farmers to maintain ditches; invest in producing an asset register so that riparian owners can easily identify water management assets on their land.

Mr Hudston posed the three questions contained within his paper and invited comments and questions from the Board.

- The Chair noted that this was a very big subject with implications that stretch far beyond the SRA.
- Mr Jenkins explained that at the end of 2019, he was asked by Dr Thérèse Coffey, then Minister responsible for flood risk management in Defra, to conduct a review for the government and provide a report on surface water flood risk management issues. In particular, the review was to consider who is responsible for what under the present arrangements. It is recognised that there are problems with the current legislation and a lack of clarity in a number of areas. There is no clear and codified set of arrangements.
- The report made 28 recommendations, with two on the subject of Riparian Responsibilities. When the report was published, the government said they were immediately accepting 12 of the recommendations, including the two on riparian responsibilities.

- The two recommendations on Riparian Responsibilities are: firstly, the need for the Environment Agency's guidance on owning a watercourse to be made clearer; secondly, that Defra needs to consider what other steps need to be taken beyond issuing guidance on particular issues e.g. legislative change.
- Mr Jenkins stated his view that whilst it is right the SRA Board pose questions about riparian responsibilities, his view is that these are not issues that can be tackled definitively by SRA officers as they need national intervention. Mr Jenkins recommended contacting the Defra Minister and asking when Defra will act on the recommendations.
- Mr Jenkins advised he would abstain on any vote related to this matter.
- The Chair thanked Mr Jenkins. He noted that the SRA are overdue sending a letter to Flood Minister Rebecca Pow, to ask what progress is being made on legislation for the creation of Rivers Authorities. The Chair suggested that a letter is drafted, and it should ask when Defra will implement Mr Jenkins' recommendations.
- Mr Bradford agreed this is a national problem. He said that Mr Jenkins had produced a very good paper. Mr Bradford suggested Mr Jenkins, in his roles with the Association of Drainage Authorities (ADA) and Chair of Wessex Regional Flood & Coastal Committee, could encourage them to develop a national policy together on this matter that clarifies the situation for riparian owners.
- Mr Jenkins has spoken to the Chief Executive of ADA. The ADA Board have not met since the report was published. ADA is likely to consider the report and are likely to let the Minister know they support its recommendations.
- Cllr Bastable raised a concern about how long it may take government to act. He supports the recommendation to write to the Minister.
- Cllr Bastable asked whether landowners should be able to approach the SRA or its partners and ask them to undertake the work required to secure permits for work in a watercourse? The landowner can then undertake the work. This would overcome one of the barriers to riparian owner maintenance.
- The Chair suggested that the issue is a live issue at the moment and it would not be right for the SRA to do nothing. The Chair reiterated his support for the suggestion of writing to the Minister stating the SRA supports David Jenkins' recommendations and asking when they will be implemented.
- Cllr Sarah Wakefield wanted to add her support on the Riparian Responsibility issues and getting in touch with Rebecca Pow. This is also an issue that was raised at Somerset West and Taunton Flood Group recently.
- Jonathan Hudston sought confirmation on whether the Board wished the SRA team to undertake any local actions in this matter or whether we should wait to see what Defra proposes to do?

- The Chair suggested a small sub-committee could be convened to provide officers a more detailed steer on any further SRA actions. Cllr Bastable supported this suggestion.
- Helen Smith, Flood Risk Management, Somerset County Council, would like to be included in any sub-committee going forward.
- David Mitchell suggested writing to the Minister in the first instance to ask about the timescale for the implementation of recommendations. If government will act soon then SRA actions can follow on after. However, if no action is forthcoming the SRA can consider in more detail what can be done locally to clarify the current situation.

As recommended, the SRA Board:

1. Noted David Jenkin's report of a review for the arrangements for determining responsibility for surface water and drainage assets and its recommendations for national moves by the Environment Agency and Defra to review guidance on riparian owners' responsibilities, to promote that guidance, and to consider further steps.
2. Considered the actions that the SRA could take to support progress on the recommendations about riparian responsibilities made by Mr Jenkins.

In addition,

3. The SRA Board agreed the Chair should write to Rebecca Pow MP, Parliamentary Under Secretary of State, expressing support for the recommendations in David Jenkins' report and enquiring when Defra will be implementing the recommendations.

10. ANY OTHER BUSINESS (AOB)

John Rowlands provided a short update on the Highbridge Clyse tidal structure, which is situated at the end of the River Brue in Highbridge. He explained that there have been repairs undertaken recently. It is a large structure with four sets of mitre doors, some of which had damage around hinges and joints. One of the gates was removed and replaced the previous week and the second damaged gate is being removed and replaced next week. The remaining gates will be removed and replaced in due course. He noted that this project is Environment Agency funded and is business as usual activity.

11. PAPERS TO NOTE

11a. Bridgwater Tidal Barrier

The paper was taken as read – no further comments.

11b. Taunton Strategic Flood Alleviation Improvements Scheme

The paper was taken as read – no further comments.

11c. Strategic Approach to Mitigation

The paper was taken as read – no further comments.

11d. River Brue Dredging

The paper was taken as read – no further comments.

The Chair thanked the Board for attending and all their hard work.

The meeting closed at 11:53am.

DRAFT