

**middle level**  
commissioners**Middle Level Commissioners Meeting**

At a meeting of the Middle Level Commissioners held at the Middle Level Offices, March on Thursday 7<sup>th</sup> November 2024 at 12.45pm pursuant to notice thereof duly given by advertisement in the newspapers of general circulation in the Level.

**Present**

|                         |                   |             |
|-------------------------|-------------------|-------------|
| J Brown (Chairman)      | Lord De Ramsey    | Ms A Morris |
| H Whittome (Vice-Chair) | J Heading         | S Raby      |
| P Allpress              | Ms S Howell (HDC) | S Whittome  |
| D Boughton              | Dr D Langslow     |             |
| R Brown                 | M Latta           |             |
| C Crofts (BCKLWN)       | A Lensen          |             |

Paul Burrows - Chief Executive, Nicola Oldfield - Chief Engineer, Robert Hill - Treasurer, Andrew Wool – Head of Finance, Sofi Lloyd – Ecology & Environmental Services Manager and Ruth Martin – Lead Clerk (minutes) were also in attendance.

**Welcome and Apologies**

The Chair welcomed Andrew Wool, the new Head of Finance at MLC to the meeting.

Apologies were received from: Ms D Laws, A Miscandlon, P West, D Fountain & R Potts.

**C.923 Declarations of Interest**

The Chief Executive reminded the Commissioners of the importance of declaring an interest in any matter included in the agenda that involved or was likely to affect any of them.

**C.924 Minutes of the last meeting and matters arising****RESOLVED**

The minutes of the Meeting of the Commissioners held on the 24<sup>th</sup> April 2024 are recorded correctly and that they be confirmed and signed.

**C.925 Constitution and membership**

Viz:

|                                            |                                        |                      |                           |
|--------------------------------------------|----------------------------------------|----------------------|---------------------------|
| Provided by the Middle Level Commissioners |                                        | Item No:             | 5                         |
| Meeting:                                   | MIDDLE LEVEL COMMISSIONERS MEETING     | Subject:             | CONSTITUTION & MEMBERSHIP |
| Date:                                      | Thursday 7 <sup>th</sup> November 2024 | Officer Responsible: | Polly Tombleson           |

- 1 The Chairman to report on notification(s) received from Commissioner(s)
- 2 To elect the Chairman of the Commissioners for the ensuing year
  - (The Chairman during 2023/2024 - J L Brown Esq.)
- 3 To elect 14 Commissioners who together with the Chairman and persons appointed by local billing authorities under the provisions of the Land Drainage Act 1991 shall constitute the Middle Level Board for the ensuing year.

The present Board members are:

|                    |                                                 |
|--------------------|-------------------------------------------------|
| J L Brown Esq.     | Chairman                                        |
| H W Whittome Esq.  | Vice-Chairman                                   |
| P W Allpress Esq.  |                                                 |
| C D Boughton Esq.  |                                                 |
| R C Brown Esq.     |                                                 |
| C J Crofts Esq.    | nominee of BCKL&WN                              |
| The Lord De Ramsey |                                                 |
| J-E Heading        | Resigned as from end of November Board meeting. |
| M E Heading        |                                                 |
| Ms S Howell        | nominee of HDC                                  |
| Dr D Langslow      |                                                 |
| M R R Latta Esq.   |                                                 |
| Mrs D Laws         | nominee of FDC                                  |
| A Lensen Esq.      |                                                 |
| A Miscandlon Esq.  | nominee of FDC                                  |
| Ms A Morris        |                                                 |
| S T Raby Esq.      |                                                 |
| P W West Esq.      |                                                 |
| S W Whittome Esq.  |                                                 |

- 4 To elect the Vice-Chairman of the Commissioners
  - (Vice-Chairman during 2023/2024 H W Whittome)

- 5 Appointment of the Executive Committee
  - To appoint the Executive Committee for 2024/2025
  - The present members of the committee are:

P Allpress Esq  
 J Brown Esq  
 M Heading Esq  
 A Miscandlon Esq  
 (S Howell – HDC)  
 H Whittome Esq

6 Appointment of Employers side representatives for the employment committee

- To appoint the Employers sides representatives and the chairman of the employment committee for 2024/2025
- The present members of the committee are:

P Allpress Esq  
J Brown Esq  
M Heading Esq  
S Howell  
A Miscandlon Esq  
P West Esq  
H Whittome Esq

7 Appointment of members representatives for the environment committee

- To appoint the members representatives for the conservation and climate committee for 2024/2025
- The present members of the committee are :

S Howell  
D Langslow Esq  
S Raby Esq  
P West Esq

8 Appointment of the water resources committee

- To appoint the water resources committee for 2024/2025
- The present members of the committee are:

J Brown Esq  
R Brown Esq  
M Heading Esq  
H Whittome Esq

9 Appointment of Commissioners to the navigation advisory committee

- The present members of the committee are:

J Brown Esq  
S Whittome Esq  
M Heading Esq

Members appreciation to Commissioners on their resignations

The Chairman invited everyone present to celebrate the 3 Board members who have decided that this is their last meeting – Mr Raby, Mr J Heading and the Lord De Ramsey.

The Board members have confirmed they are not standing for membership of the Board again have given a total of over an impressive 110 years' service to the Middle Level Commissioners:

**Lord De Ramsey** – Joined the Board on 6<sup>th</sup> November 1980 – was Vice-Chair 6<sup>th</sup> November 1986 until 4<sup>th</sup> November 1993, then Chair 4<sup>th</sup> November 1993 until 3<sup>rd</sup> November 1994 and then retired from the Board on 7<sup>th</sup> November 2024 – 44 years.

**Mr S Raby** – Joined the Board on 7<sup>th</sup> November 1991 – 7<sup>th</sup> November 2024 – 33 years.

**Mr J Heading** – Joined the Board on 7<sup>th</sup> November 1991 – was Vice-Chair 4<sup>th</sup> November 1993 until 2<sup>nd</sup> November 1995, then Chair 2<sup>nd</sup> November 1995 until 2<sup>nd</sup> November 2000 and then retired from the Board on 7<sup>th</sup> November 2024 – 33 years.

The Chairman added that it is sad to lose such vital minds who have made massive contributions to this Board and to the Middle Level as a whole, and he invited all present to thank them for their work which was met with unanimous agreement.

#### RESOLVED

- i) That the Board have their thanks recorded in the minutes for the many years of service & commitment by these members given to the Middle Level Commissioners. Although they will all continue as Commissioners with a re-declaration.
- ii) That the Clerk is to update a Commissioner Eligibility Claim Form and approach all known eligible Commissioners for an updated re-declaration.

#### To elect the Chairman of the Commissioners for the ensuing year

Mr S Whittome proposed Mr J L Brown be Chairman for the ensuing year. This was seconded by Mr C Croft and agreed unanimously.

#### RESOLVED

The Commissioners voted and agreed the Chairman of the Commissioners during 2024/2025 be Mr J L Brown.

#### To elect 14 Commissioners who together with the chairman and persons appointed by local billing authorities under the provisions of the Land Drainage Act 1991 shall constitute the Middle Level Board for the ensuing year.

#### RESOLVED

That the undermentioned Commissioners be elected to constitute, together with the Chairman, Mr C J Crofts (appointed by the Borough Council of Kings Lynn and West Norfolk), Mrs D Laws and Mr A Miscandlon (appointed by Fenland District Council) and Ms S Howells (appointed by Huntingdonshire District Council), the Middle Level Board for the ensuing year.

J L Brown Esq (Chairman)  
H W Whittome Esq (Vice Chairman)

M R Latta Esq  
Dr D Langslow

P W Allpress Esq  
C D Boughton Esq  
R C Brown Esq  
M E Heading Esq

A Lensen Esq  
P W West Esq  
S W Whittome Esq

Following the resignations of The Lord De Ramsey, Mr J Heading and Mr S Raby, the Commissioners were advised that there are 3 vacancies on the Board.

The Commissioners approved to review this further at their next meeting following recommendations from the Board.

#### To elect the Vice Chairman of the Commissioners

The Chairman proposed Mr H Whittome be Vice Chairman for the ensuing year. This was seconded by Mr J Heading and agreed unanimously.

#### RESOLVED (Unanimously)

The Commissioners voted and agreed the Vice-Chairman during 2024/2025 – Mr H W Whittome.

#### Appointment of Executive Committee

The Commissioners considered the recommendation of the Board and to appoint the Executive Committee for 2024/2025.

#### RESOLVED

That the Executive Committee for 2024/2025 be constituted as follows:

J L Brown Esq (Chairman)  
H W Whittome Esq (Vice Chairman)  
P W Allpress  
M E Heading  
A Miscandlon

#### Appointment of Employers' Side Representatives for Employment Committee

The Commissioners considered the recommendation of the Board and to appoint the Employers' Side Representatives and the Chairman for the Employment Committee for 2024/2025.

The present members of the Committee are A Miscandlon (Chair), Ms S Howell (Vice Chair), P W Allpress, J L Brown, M E Heading, P W West and H W Whittome.

#### RESOLVED

That the Employers Side Representatives for the Employment Committee for 2024/2025 be constituted as follows:

A Miscandlon (Chairman)  
Ms S Howell (Vice Chairman)  
P W Allpress  
J L Brown  
M E Heading  
P W West  
H W Whittome

#### Appointment of Members' Representatives for the Conservation and Climate Committee

The Commissioners considered the recommendation of the Board and to appoint the Members' Representatives for the Conservation and Climate Committee for 2024/2025. It was clarified that members of this Committee do not need to be Board members but they must be Commissioners.

The present members of the Committee are The Lord De Ramsey, J E Heading, S T Raby, Dr D Langslow, Ms S Howell (Chair) and P W West.

#### RESOLVED

That Lord De Ramsey, J E Heading Esq, S T Raby Esq, Dr D Langslow, Ms S Howell and P W West Esq be appointed to the Conservation Committee for 2024/2025.

#### Appointment of Water Resources Committee

The Commissioners appointed the Water Resources Committee for 2024/2025.

The present members of the Committee are J L Brown, R Brown, M E Heading and H W Whittome.

#### RESOLVED

That J L Brown Esq, R Brown Esq, M E Heading Esq and H W Whittome Esq be appointed to the Water Resources Committee for 2024/2025.

#### Appointment of the Commissioners' representation on the MLC Navigation Advisory Committee

The Commissioners appointed the Navigation Advisory Committee representatives for 2024/2025.

The present members of the Committee are J L Brown, M E Heading and S W Whittome.

The Chairman reported his understanding the Mr M Heading may wish to stand down from this Committee. He added that this is a positive and supportive committee and invited Commissioners to join. Ms S Howells agreed to join the committee.

#### RESOLVED

That J L Brown Esq, S W Whittome Esq and Ms S Howells be appointed to the Navigation Advisory Committee for 2024/2025.

C.926 Fens Reservoir

The Chief Executive reported that, as discussed at the Board meeting, in relation to the Fens Reservoir it is prudent to secure specific delegations and authority to act as one with IDBs in a legally robust manner for a scheme of this complexity and significance.

RESOLVED

**Under their Schedule of Reserved Matters, the Commissioners approve material changes in the criteria for exercising statutory powers or in the way in which duties are performed by the Commissioners. As the Fens Reservoir Development Consent Order will disallow/overwrite existing statutory powers held by the Commissioners, the Commissioners acknowledge this need and delegate the decision-making authority to the Chief Executive engaging with the Chair/Vice Chair, MLC Exec or Board as he sees fit.**

**Under their Schedule of Reserved Matters, the Commissioners approve objectives (except where specifically delegated to the Board). The Board then approves the Commissioners' operational strategies. The Commissioners approve the following objective and support the Board's operational strategy.**

**Fens Reservoir Objective**

*Ensure the interests of the Middle Level Commissioners are managed within the development, delivery and subsequent operation of the Fens Reservoir.*

**Fens Reservoir Operational Strategy**

*Consider the Fens Reservoir as a high priority objective within the deployment of available resources, accepting that lesser priority business activities will be impacted. Take an agile and responsive approach to inputs, influencing and engagement on the project to ensure risks to the Commissioners are managed and opportunities are maximised.*

C.927 Annual Report of the Board for the year 2023/2024

The Commissioners considered the Annual Report of the Board for the year 2023/2024.

RESOLVED

The Commissioners approved the Annual Report for the financial year 2023/24.

C.928 Finance and Governance – Treasurers reportAnnual Accounts of the Commissioners for the Financial year 2023/2024RESOLVED

That the Annual Statement of Accounts for the year ended 31<sup>st</sup> March 2024 be approved, adopted and passed by the Commissioners.

To consider the recommendation of the Board concerning payment/expenses for Chairman and Vice-Chairman

Viz:



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commissioners**

*Proudly managing water levels in the Fens since 1862*

## **For: Middle Level Board & Commissioners**

### **Chair and Vice Chair remuneration**

The Board are asked to consider and determine whether to recommend to the Commissioners that they agree in principle to seek, either;

- i) a Ministerial order to enable payment for the position of MLC Chair and/or
- ii) payment of expenses (including for time away from employment) for the MLC Chair and Vice Chair roles.

If the Board make a recommendation to the Commissioners and the Commissioners agree, then a proposal will be developed for review and approval at the April 2025 meeting. At this stage seeking a Ministerial Order is considered too complex given the clauses within the Middle Level Act, therefore an expenses approach is the most likely option that will be developed.

The Commissioners are asked to review and approve any recommendation made by the MLC Board.

#### **Case**

The MLC Commissioners appoint a Chair and Vice Chair. The role, responsibilities and associated time commitments on Commissioners who put themselves forward for these roles have increased over the years as the MLC has evolved.

The challenges, reform agenda, expectations and opportunities ahead are arguably far greater than those faced in the past and therefore it seems sensible to review the Commissioners' approach to payments and expenses.

#### **Legislation**

Whilst the founding premise underpinning Internal Drainage Board governance is that members are volunteers the Land Drainage Act 1991 (Schedule 2) does allow for:

##### **Payment of the IDB Chairman**

*The relevant Minister may, if he thinks fit, by order authorise an internal drainage board to pay to the chairman of the board, for the purpose of enabling him to meet the expenses of his office, such allowance as may be specified in the order.*

The process for enacting the above is seemingly straightforward, in that if an IDB wants to pay a Chair then the minutes of the resolution are sufficient for Defra to then prepare a Ministerial Order. If the payment is reasonable there should be no issues.

However, part of Section 7 of the 1810 Middle Level Act disqualifies any person holding a place of profit from the Commissioners from being a Commissioner. Although parts of this section were repealed, Section 53 1862 Act, schedule 6, the part concerning disqualifying a person holding a place of profit from acting as a Commissioner was not.

Therefore, under the Acts, if the Commissioners were to pay the chairman for duties as chairman, he would be disqualified as a Commissioner and therefore could not be appointed as chairman.

We are awaiting advice from Defra whether they would be comfortable in preparing a Ministerial Order that needed to over-write or repeal parts of our primary legislation. This may present a risk to the Commissioners anyway which discounts payment as an option we progress.

The Middle Level Act 1810 (13) specifies that the Commissioners must bear their own expenses for any meetings held under the authority of the Act. This was seemingly effectively repealed within the Middle Level Act 1848 (90) which states that payment of reasonable expenses of any committee under this and preceding Acts is allowed. This clause provides for greater flexibility than Schedule 2 of the Land Drainage Act 1991 that covers member expenses.

### **Local benchmarking**

The Anglian (Great Ouse) Regional Flood & Coastal Committee Chair role has a salary of £18,927 (as of Jan 2024) for 5 days per month commitment (equating to £315 per day). This role has significantly less accountability than being Chairman of the MLC.

The IDBs within the Water Management Alliance, including our neighbour King's Lynn IDB, have a [ministerial order](#) from Defra secured in 2007 under Schedule 2 (S1) of the LDA 1991, to pay the Chairman an allowance of £10,000 per annum. This sets the maximum level of allowance.

The IDBs within the WMA currently pay up to £3,500 allowance per annum with a time commitment estimated as one day per month (equating to £290 per day). Each Chairman can decide not to take this allowance or receive a lesser amount.

To enact the above King's Lynn IDB have a [Chairman's Allowance & Members Expenses Policy](#) and a [published document](#) that divides responsibilities between the Chairman and Chief Executive.

Paul Burrows  
Chief Executive, [Middle Level Commissioners](#)  
chiefofficers@middlelevel.gov.uk  
7 November 2024

### **RESOLVED**

The Commissioners approved that the Chief Executive is to develop a proposal regarding the payment of expenses for the MLC Chair and Vice Chair roles, and to present this for consideration at the April 2025 Board Meeting.

### **Rate Arrears**

The Commissioners considered a recommendation of the Board that rate arrears amounting to £421.52 should be written off.

### **RESOLVED**

The Commissioners considered and approved the recommendation of the Board to write off the rate arrears.

C.929 Miscellaneous ItemsComplaints Update

The Chief Executive advised that Complaints have reduced to a handful and are being worked through, and that generally good feedback is received.

C.930 Date of Next Meeting

Wednesday 30<sup>th</sup> April 2025 at 12.45pm at Middle Level Offices, March.

C.931 Any other Business

No other items were raised by Commissioners.

The meeting closed at 1pm

.....  
Chairman

.....  
Date