Middle Level Board Meeting

Wednesday 30th April 2025, 9:30am

Middle Level Offices, March

Agenda:

Item No	*Topic*	*Format*	*Lead*
1	Welcome & apologies	Verbal	Chairman
2	Declarations of Interest	Verbal	Chairman
3	Minutes of last meeting and matters arising	Pages 2 - 16	Chairman
4	Constitution & Membership	Pages 17 - 20	Chairman
6	Strategy & Delivery *Review of Annual Report with a specific focus on major areas of efficiency and income generation:* • Electricity Net Zero. • Optimising St Germans Pumping Station. • Charging model for Planning & Consents, and associated compliance and enforcement. • Levering grant and external funding to develop and deliver the scale of capital works MLC faces. • Environmental Risk Management. *The rest of the report will be taken as read with any associated resolutions taken as supported*	Annual Report	Chief Exec/Chief Engineer
7	CONFIDENTIAL ITEM SUBJECT TO LEGAL PRIVILEGE Resolve to exclude the public under S1(2) Public Bodies (Admission to Meetings) act 1960.		Chief Exec
8	Chair & Vice Chair Role & Responsibilities and associated proposal for expenses.	Pages 21 - 23	Chief Exec
9	Finance and Governance *Including but not limited to:* • Payments by the Commissioners and miscellaneous receipts • Review of Finance Report and associated resolutions • Fees & Subscriptions • 2025/26 budget and rate decision • Determination of annual values for rating purposes, rate arrears and contributions from developers – confidential papers	Finance Report - Enc	Head of Finance
10	Miscellaneous Items • Complaints	Verbal	Chief Executive
11	Annual Inspection and Date of Next Meeting	Verbal	Chairman
12	Any other business	Verbal	Chairman

Middle Level Commissioners

At a meeting of the Middle Level Board held at the Middle Level Offices, March on Thursday 7th November 2024.

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 and P West.

B.3862 Declarations of Interest

The Chairman reminded Members of the importance of declaring an interest in any matter included in today's agenda that involved or was likely to affect any of them. Declarations to be addressed at each point.

B.3863 Minutes of the Last Meeting and Matters Arising

RESOLVED

That the minutes of the Meeting held of the Board on 24th April 2024 are recorded correctly and that they be confirmed and signed.

B.3864 Constitution and Membership

Membership of the Board

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 6th November 1980 – was Vice-Chair 6th November 1986 until 4th November 1993, then Chair 4th November 1993 until 3rd November 1994 and then retired from the Board on 7th November 2024 – 44 years.

Mr S Raby – Joined the Board on 7th November 1991 – 7th November 2024 – 33 years.

Mr J Heading – Joined the Board on 7th November 1991 – was Vice-Chair 4th November 1993 until 2nd November 1995, then Chair 2nd November 1995 until 2nd November 2000 and then retired from the Board on 7th 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

> 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.

The Clerk drew the Board's attention to the Constitution and Membership report, advising that this is snapshot of Board membership. He added that considering three of the current Board are stepping down, it is timely to undertake a review of declarations of Commissioner eligibility and introduce a claim refresh approach every five years. It is intended that an updated Declaration of Commissioner Eligibility Form will be produced and then all known eligible Commissioners (including Board Members) asked to declare ahead of the November 2025 meeting.

Keeping with good governance continues to be of high importance, and although ADA is still finalising its revised guide it is hoped for an update at the ADA Conference next week. It is also hoped that this will assist with reviewing the roles and responsibilities of Commissioners.

Mr C D Boughton asked if the list of Elected Members could be amended so show him as Mr Duncan Boughton, to avoid confusion with Mr Charles Boughton. Mr H Whittome observed that Mrs Laws has now missed 5 Board meetings in a row and, even though understanding that this was due to illness, that if she is unable to attend the meetings that Fenland District Council should be asked to review this. The Board asked the Clerk to write to Fenland District Council and feed this back in a formal way, as missing so many concurrent meetings is setting an unacceptable pattern of behaviour.

RESOLVED

i) That the Clerk write to Fenland District Council.

ii) That the Clerk to update a Commissioner Eligibility Claim Form and approach all known eligible Commissioners for an updated re-declaration.

B.3865 Strategy and Delivery

The Chief Executive referred the Board to his Report and asked the Commissioners to take as read, taking note of the Resolutions as the table at the front of the report.

The Clerk advised the Board that he would be drawing the Boards attention to particular topics, along with some other important items which intend to promote an efficient, effective and resilient organisation.

Fens Reservoir

Ms A Morris, Mr J Heading and Mr Allpress declared an interest in this item.

The Chief Executive reported that the Anglian Water Phase 2 Consultation has now closed, and following strong influence by Middle Level Commissioners, recognised now that the scheme cannot succeed without the Middle Level Commissioners and associated IDBs infrastructure, operations and resources. He added that the existing cost recovery agreement with Anglian Water is coming to an end but the Chief Executive is working with Anglian Water to set up the next phase of cost recovery which will include the period up to the Development Consent Order. We do not have the capacity to move forward quickly enough for the project – for example we have recently received a Planning Inspectorate document which is 700 pages long and we have only 4 weeks to review and reply. The scale of the scheme is something we are not set up for and we need Anglian Water to help us to provide proper resourcing. We are still working on securing further funding from Anglian Water.

By next spring Anglian Water want to be at a 'whole scheme solution' stage, with a design freeze and a further consultation. We need to help draft a Statement of Common Ground, and a Principle Areas of Disagreement Statement (where we will need to focus our legal efforts). Anglian Water have confirmed the scope of legal costs that they will fund, and this is reported in the Quarters 1 & 2 Annual Report (Page 28). We have been in contact with legal providers and invited proposals, and we have had two returns which will be reviewed imminently.

The Board needs to reflect on the provision of a legal fund to cover any legal costs that are not included in the list of those covered by Anglian Water. Ms Morris advised that in her contact with Anglian Water, they have now agreed to fund items that originally, they had not agreed to, and would recommend pushing back. The Chief Executive added that until now the Cost Recovery Agreement in place with Anglian Water has been quite specific in what is covered, but a revised agreement will look to extend funding further.

Mr Raby asked if the site for the reservoir is the only one being considered, and the Chief Executive responded that there has been a long list which has been narrowed down to a preferred site. Anglian Water are working on the premiss that the reservoir will be constructed in the location currently identified.

The Clerk added Middle Level Commissioners need to have no regrets, as the deal we strike will be important for many future generations of ratepayers. Part of the challenge is how we keep up with the pace of the scheme, and how we get the right delegations in place and act as one with IDBs. So far, we have been using our existing arrangements to input on behalf of Boards and responding on their collective behalf. As the DCO progresses, Anglian Water want assurance that Middle Level Commissioners has appropriate rules of engagement in place. If IDB's want to use their own legal representation if would be inappropriate to work with Middle Level Commissioners too. Some items will require ratifying at Commissioners meetings to then go to IDBs, otherwise there may be a need to call numerous extraordinary board meetings.

Subsequently the following Resolutions are needed.

The first resolution is to wrap up all approvals upfront. As the project is constructed, this would prevent the need for consents to be applied for and issued as the project goes along. This would require normal IDB and MLC powers to be disallowed because they have already been agreed. Therefore, the Chief Executive asked that 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 Board is asked to recommend to the Commissioners that they 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.

The Chairman added that this resolution is all about having everything in one place, so we are not slowing the process down, effectively creating a one stop shop for authorities.

The Chief Executive also asked that 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. This Boards Schedule of Reserved Matters is for 'business as usual' activity, and therefore the Board need to recognise the Fens Reservoir as different. Therefore, an addendum to the Reserved Matters will be needed, as a Fens Reservoir Operational Strategy – that is for the Board to delegate the authority to enact and implement the Fens Reservoir operational strategy to the Chief Executive engaging with the Chair/Vice Chair, MLC Exec or Board as he sees fit.

The Chief Executive asked the Board to review the Fens Reservoir Objective and Operational Strategy, that is:

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.

The Chief Executive went on to advise the Board that although Anglian Water have committed to covering most of the legal costs relating to the Fens Reservoir, the Board must accept that there will be unrecoverable legal costs associated with the project. He therefore asked the Board to acknowledge that it will need to budget for un-recoverable external legal costs associated with the Fens Reservoir in further years and it is suggested that this need starts to be factored within 2025/26 estimates and rates.

The Board were also asked to approve that the Middle Level Commissioners act as one on the Fens Reservoir with the impacted IDBs it administers. In that its employees, contractors and legal services also act for the impacted IDBs. A cost sharing/recovery approach will need to be agreed.

The Chairman invited the Board to discuss the Resolutions.

Mr S Whittome voiced concern over the unrecoverable costs, and asked how these would be limited. The Chief Executive drew the Boards attention to the list in his report of items that Anglian Water would not expect to cover the legal costs of but added that this would be an area for further negotiation and that this is an area for discussion with legal representation once appointed.

The Chairman added that care needs to be taken to ensure that unrecoverable costs are kept to a minimum, and that we look to achieve value for money throughout. The Chief Executive advised that some things will not be covered, but they would likely be items that we would prefer are not dealt with by legal counsel, and may be better dealt with by engineers which would help to keep costs down.

Ms Morris raised concerns about the costs to IDBs, with those she is associated with already setting rates at a high level, and the likelihood that these could be further compounded. The Chief Executive responded that this would be why he would like to see a cost recovery agreement in place, and for the Boards to act as one. Ms Morris asked if the costs would be dissipated out, and the Chief Executive responded that if the MLC and IDBs are bearing unrecoverable costs we would need to share them.

Lord De Ramsey observed that when paying for yourselves there is a credibility factor, and it may be right to remain independent and pay ourselves. Mr J Heading added that he thought that the selected site was understandable, and this is one of two reservoirs being built by Anglian Water. He observed that he thought the Boards originally did not realise that the area affected by the schemes would be much larger than just the land identified for the reservoir itself. His thoughts were that it would be unreasonable that rate payers should pay for a commercial scheme and that our costs are small in relation to the scheme as a whole. With a final scheme decision not due until 2026, he questioned what the financial situation of the water authorities might be then. The Chairman agreed that the costs imposed on us as a result of the reservoir are not ones we would have expected.

Mr J Heading agreed to the proposal to act as one organisation but worries about sharing information with all parties in a timely manner.

Mr D Boughton asked about the rating situation at the end of the development, and the Chief Executive advised that there is a whole host of drainage, rating and governance questions that will need answering including rating of the reservoir and if the land is still agricultural land. We have highlighted these items to Anglian Water's legal team, and they and other items will need considering.

Mr Lensen asked about funding, and if MLC will be responsible for paying fees upfront and if it will be necessary to increase rates to cover these. The Chief Executive advised that to date we have been reinvoicing for time spent, but we understand that once we have appointed a legal partner, Anglian Water will pay a fee of £10,000 allowing them time to get up to speed with the project although we need to understand the detail of this.

Mr Broughton asked it there would be a public enquiry, to which the response was at this stage it is not known but it would be likely. Mr Crofts asked if there were any projects being built elsewhere that we could learn from, and to which the response was that this project is quite unique, especially its involvement with drainage boards. Anglian Water's technical team are knowledgeable on water supply and reservoirs but not so on the Fens and how our drainage works, and part of our role is ensuring that they understand this.

The Chief Executive went on to advise that our goal should be a solution which supports the reservoir but also saves pumping by taking water from our system during the winter. The reservoir scheme in return needs St Germans pumping station and pond for the drawdown planning, but a financial deal will be needed to develop the infrastructure needed to supply the reservoir over its design life. Many people are thinking that the reservoir could be used as an irrigation benefit, but from a drainage rate perspective, the key benefits are less pumping at St German's and long-term certainty over increased investment in our infrastructure and operations. The scheme will not negate the need for St German's Pumping Station but might extend the pumping stations life which has a huge cost benefit for all parties.

Mr H Whittome added that he consider the reservoir as Critical National Infrastructure, and there is opportunity for MLC as our infrastructure subsequently becomes more important. Lord De Ramsey observed that the there should be no expectation that the reservoir could be used for balancing at times of flood. Mr J Heading thought that to date there had been no evidence that the water in the reservoir would be available to agricultural rate payers as the reservoir is funded by an organisation separate from Anglian Water, and that the water it contained would be for domestic purposes only and not for irrigation, unless irrigators were prepared to pay the domestic supply market price. The Chairman reminded the Board that Mr H Whittome sits on the Fens Water Partnership representing the Board, and Mr H Whittome advised that as the water in the reservoir had not been treated, domestic supply costs would not be applicable to it. He added that studies looking at the headroom required to allow water discharge, reports looking at potential, and designing capacity for a 1 in 499-year event would allow some water for agriculture. He felt it was important to keep pushing for this, and the EA are keen for this approach due to current and anticipated water stresses. Therefore, this shouldn't be written off, and he is optimistic that something can be agreed.

The Chief Executive referred the Board to the resolutions and advised that he is requesting delegated responsibility to direct enquiries as he sees fit. The Chairman moved to the resolutions and proposed that they be adopted en bloc, and this was unanimously agreed.

Mr Boughton asked if the Board felt the requirement to be updated on Fens Reservoir progress more regularly than every 6 months, and the Chief Executive asked if he could consider this and how this could be done whilst still maintaining the required level of confidentiality but committed to find a way to keep the Board up to speed with developments. Mr J Heading reminded the Board that the involved Internal Drainage Boards will also need to make appropriate resolutions.

IDB Governance Future within the Middle Level of the Fens

The Chief Executive referred the Board to Page 7 of his report, and IDB Governance Future within the Middle Level of the Fens. The report gave an update from the working group and explained that the landscape of IDBs will need to work differently in the future. He added that it was important to start developing ideas now, and that South Level Boards are currently considering amalgamating 10 Boards down to 1. He advised the Board that MLC have recently given notice to discontinue service provision to some Boards and that this may result in some of those moving to amalgamation. He then drew attention to the resolution to ask the Board to contribute towards the costs of developing a scoping study, with the intention that by next spring an outline design can be developed with which we can engage, but also to take off the table the proposal to have one giant IDB – it was felt by the working group that this would be impractical and costly to even develop an outline design. He added that funding of £10k was considered sufficient to move a step further forward.

The Chairman added that this succession planning, or future planning would help identify who would run and manage IDBs in 5 - 10 years' time. We all know there is no queue of people waiting to sit on Boards. Mr Raby added that this proposal may need to come from an organisation like the Middle Level Commissioners, and the Chairman added that the intention is to try to get people to think about this. Ms Morris agreed, adding that it will be different in 10 years' time when trying to get people to join Boards compared to now. There will be more wetlands, and land that needs to be managed differently, concluding that she supported the proposal, and Mr H Whittome agreed. The Chairman agreed that this would be the responsible thing to do.

Mr H Whittome added that the individual IDBs cannot come up with a strategic plan alone, and so it would need to come from this Board and so he supports the proposals.

Mr Boughton asked if the Chief Executive had anyone in mind and asked if Geoff Beel would be approached. The Chief Executive reported that he has been considering approaching George Dann to carry out the study, as Geoff's work almost 20 years ago was in relation to the Pitt Review. Mr Latta asked if the report would consider the 'do nothing' scenario, and the scenario where no Board members can be recruited. The Chief Executive reported that this scenario nearly played out recently with Conington and Holme IDB, he added that no quorum and no Chairman meant rates could not be set or payments made, effectively meaning the IDB would cease to operate, leaving someone else to deal with the consequences. Swavesey IDB found itself in exactly this situation and the Minister directed to the predecessor of the RFCC that they had to take over the Board, and so this could be the outcome of any future scenario. The EA have made it clear that they do not wish to take control of Boards, but the Flood and Water Management Act 2010 allows the Secretary of State to direct another water management agency to take control, and that could include the Middle Level Commissioners. The Chairman added that he thought we generally had well run IDBs but there were areas of concern, and we need them all going in the right direction at the same speed. Mr J Heading said he had always thought all of the IDBs should act as one and does not support the proposed compromise. He is of the opinion that all of the Boards in the Middle Level catchment should merge and that the Boards outside of the catchment should also merge, creating 3 distinct boards. The Chairman added that the focus group needs space to develop an achievable solution.

The Chairman then moved to the Resolutions as listed in the Chief Executive's report and asked the Board if they agreed to adopt the Resolutions. The resolutions were agreed unanimously.

Charging Model for Consents Applications

The Chief Executive moved on to page 37 of his report, regarding charging for Planning and Consenting. He advised that the new Head of Technical Services, Chris Bailey, has been overseeing a review of these services. He has been working with the team on getting through the backlog, and unpicking areas where income can be maximised. He has identified that the MLC charging model is out of sync with neighbouring IDBs and is asking for agreement to develop a revised charging model in readiness for the April Board meeting. It will be necessary for all of the administered Boards to adopt the same model, although this is not expected to be an issue. The Boards could potentially be missing out on significant funds, which could supplement their asset development funds.

Mr S Whittome thought that the Boards were restricted on what they could charge, and the Chief Executive advised the although the Land Drainage Act does cap some applications at £50, this does not apply to pre and post applications, and commuted sums for culverts for example.

Ms Morris agreed with the proposal, noting that the existing situation was something the IDBs had not been comfortable with for some time. The Chairman asked the Board for their vote, and the proposal to review the charging model was unanimously agreed.

Middle Level River Management Scheme

Referring to Page 29 of the report, the Chief Executive and Chief Engineer advised there was much to update on the River Management Scheme. The Board members that attended St German's were thanked, and the messages from that visit were summarised in the report. However, there has been a great deal of uncertainty over the last few weeks, meaning change to the direction of the scheme.

The Main Drain desilting works have started, and there is an opportunity to view these works over the next six months. The original plan was to complete the main drain and the next phase of delivery within the £23.9millon grant approval by 31st March 2027. However, the Environment Agency are in year 3 of a 6-year program, and inflation has had a significant impact. In addition, the EA have subsumed the Lincolnshire Breach repairs with no additional funding, and subsequently they do not have sufficient grant available for our scheme this financial year. Without the MLC having sufficient financial reserves, this means we cannot afford to undertake the rescoping works for the next phases alongside the Main Drain desilting works. The rescoping activities are critical to a timely business case update report that we need to develop in order to release the contingency value within the grant approval. It leaves future delivery uncertain and a high likelihood that following the desilting of the Main Drain, the project will have to close. The Middle Level Commissioners flood benefits will remain available for use in future grant applications, so once the current works are complete, there is the opportunity to take stock with all the evidence we now have and target future investments wisely. The landscape has changed since the scheme was first conceived after the 1998 floods, and the upcoming report that will be published on 19th November on the Climate Change on the Fens highlights that we need to be reassured that investments are future proof. The Fens Reservoir also is an important new development that was not conceived within our scheme development. In addition, the contract with Blue Compass came to an end on 31st October and has therefore not been renewed, and this has left vacancies in some critical roles on the project. There is also the uncertainty of next year's grant funding with the environment Agency left uncertain and unable to engage in the run up to the governments Autumn Budget.

The Chief Engineer advised that the bathymetric surveys carried out prior to commencement of Main Drain works were detailed, and some clay mixed with silt material being extracted at the moment is as expected. However, the composition of the material removed will vary throughout the system. The Chairman asked if it was possible for the desilting of the Old River Nene through March to fall into the reservoir project, but the Chief Engineer thought it would be unlikely. She added that the stretch through March had already been paused due to concerns around bank stability and now the funding situation meant bank stability assessment has had to stop before it commenced. The Chief Executive added that the plan for the next phase was to springboard efficiently onto three stretches, on the Twenty Foot, Old Nene through March and Pophams Eau have most likely been lost as they could not be delivered without significant risk to the Middle Level Commissioners. We are now looking at a 12–18-month delay which will have an impact on resourcing the project and overall momentum. She added that the project board is meeting next week to review the situation, reaffirm decisions already taken and establish if there is a way to continue delivery beyond the Main Drain desilting.

Mr S Whittome added his disappointment at the outcome, adding that he thought the original scheme planned to store water at the west of the system. The Chief Executive advised that the current situation allows us to go back to the strategy of the system and review in light of all the changed factors since 1998. The best knowledge we have of our systems is held in house so we need to consider where using consultants may be most beneficial. The scheme we need may not be at the financial reach of our ratepayers, and so we may need to look for other sources of investment and this would be new for Middle Level Commissioners.

Mr Boughton asked why costs had increased so much compared to the original scheme, and the Chief Executive advised that the original scheme cost was significantly underestimated, with no contractor input. He understood that it looked at how much used to be spent on desilting using a drag line from the bankside but likely didn’t consider the more difficult areas where this was not possible. The Chief Engineer joined Middle Level Commissioners from managing similar projects and could compare costs with current projects. Mr Boughton asked if all of the works would need to be carried out from the river and was advised by the Chief Engineer that the method proposed through March was very different and the most suitable method chosen will vary across the system.

Ms Morris asked for details to help understand the scheme costs – what had been spent, how much was left, what has been removed from the scheme and what has been deferred. The Chief Executive advised that £23.9million funding had been secured including a circa £14million contingency in December 2021 to deliver what had been detailed in the business case. This was assured and approved by the EA. As soon as MLC realised the scheme could not be delivered for that cost, it was flagged to the EA and identified that the Main Drain would be the favoured option for the first phase of delivery due to the Main Drain providing the greatest flood benefits to the whole system. Recently the EA advised Middle Level Commissioners that the full finding needed this year was no longer available and that there was uncertainty regarding future years. We have flood benefits we can still use but we will now need to compete with other schemes for the funding. Ms Morris asked how much funding is still available to use, and the Chief Engineer advised that £12.5million has been released and we would need to apply for the rest. We were forecasting a £7.5 million spend for this financial year but have been capped at just over £6m, adding that if we close the project after the Main Drain we will be unlikely to need access to the contingency sum within the approval.

Mr H Whittome asked why this funding could not be used on the March desilting, and the Chief Engineer advised that in the EA Fens Tactical Plan, the Main Drain has the greatest number of benefits so that is the main reason it has been prioritised. The Chief Executive added that any further works would need to be delivered by 31st March 2027 so with the delay caused by the lack of funding this year, the critical assessments and planning for the various pre-construction activities and silt lagoon arrangements have stopped, so it is relatively complex and risky operation that has been made more so by these recent circumstances. The Chief Engineer added that there would be a need to review the economic benefit to deliver and the number of households protected with full GiA funding. Mr Raby stated that the southwest area of the Middle Level is at capacity, and that there were problems in the Sawtry area. The catchment overtops with any significant rainfall especially on wet ground and balancing does not seem to work. He asked if the scheme would alleviate these problems. The Chief Engineer responded that this is a very different catchment and the intention to look at the Bevills Pond catchment with the alternative flood storage project now coming to an end and results under review, they will now be looking at the outcomes of the project and what else could be done in that catchment. She added that development in this area would be somewhere that the revised charging model for developers could bring significant benefits.

Mr Raby noted that Middle Level Commissioners had been using consultants but had now stood down Blue Compass. He asked if Balfour Beatty would also be stood down. The Chief Executive advised that Balfour Beatty are Principal Contractor on the River Management scheme and are currently only contracted to deliver the Main Drain desilt and the overall concept design. On completion of the works, we will then take stock of where we should focus our energies and what are our best ways to invest. The Chief Engineer added that for a project of this scale an engineers team of five full time equivalent posts would be required. The Chief Executive added that we need to reconsider our staffing arrangements taking account of the fact we have £100m plus of works needed and funding to find in our system over the next decade or so.

The Board agreed they would like a site visit, and the Chief Engineer was asked to generate some potential dates and advise the Board.

<u>RESOLVED</u>

> The Chief Engineer to generate dates for a potential site visit of the River Management Scheme and advise the Board.

<u>Other Items</u>

The Chief Executive then went on to advise the Board of some further matters not included in his report. He updated the Board on an incident at Aqueduct Bridge, resulting from a car crashing into the bridge and a significant amount of damage being caused. MLC Engineers are working with insurers and Norfolk County Council to recover costs, although it appears the driver is uninsured. It is expected that repairs will cost about £30,000.

Some intrepid boaters have been into Monks Lode and navigated beyond the currently advertised 'end of navigation'. Additional lengths are covered within the definition of waterways in the Middle Level Act (2018) and so our regulations can safely apply to this stretch. It is good to report a good news story. The Chief Executive is also going to be interviewed by Fund Britain's Waterways, and the interview will be available online within the next few weeks.

The Impact of the Government's Autumn Budget means that a change in taxable benefits may affect the double cab pick-up vehicles and we need to look at the impact of this. It was requested that authority be delegated to the Chairman to make any quick decisions on important issues that may be required as a result.

<u>Q&A from Members on other topics within the report</u>

The Chairman invited questions from the Board on the remainder of the Chief Executives report and any comments on the resolutions. With no further questions or comments the Board agreed the resolutions.

RESOLVED

i) That provision is made to contribute up to £10k towards the costs of developing a scoping study/outline design of a future IDB model within the Middle Level.

ii) That the Board support the recommendation that amalgamating IDBs into the Middle Level Commissioners or becoming one very large two tier IDB is not taken forward into scoping or outline design of a future IDB model.

iii) That the adopting of the Water Management Alliance's new DRS 365 software and entering into the associated licensing agreement is approved.

iv) Reaffirmed that all employees and contractors of the Middle Level Commissioners are considered as duly authorised officers and therefore able to use the Commissioners' powers and IDB Byelaws for their operational and regulatory roles on behalf of the Commissioners and IDBs we provide services for.

v) That the creation and approval of a Violence and Aggression at Work policy is delegated to the Chief Executive.

vi) The Board noted and approved the update and re-publication of their Complaints Procedure and Privacy Policy.

vii) That the publication of an Anti-Bribery policy which includes the need to log offers of gifts and hospitality is approved.

viii) That the Board support a review of the MLC highland areas that inform Highland Water claims.

ix) That the decision be delegated to the Chief Executive in conjunction with the Chairman on whether to appeal under S57 (4) of the Land Drainage Act for any reduced payment or non-payment of its Highland Water claims. The Board supported the packaging of any such appeal with similar appeals from MLC administered IDBs and potentially IDBs from the wider Great Ouse catchment.

x) That the Board recommend to the Commissioners that they acknowledge that the Fens Reservoir Development Consent Order will disallow/overwrite existing statutory powers held by the Commissioners and delegate the decision-making authority to the Chief Executive engaging with the Chair/Vice Chair, MLC Exec or Board as he sees fit.

xi) That the Board recommend the Fens Reservoir objective to the Commissioners for their approval and approve the Fens Reservoir operational strategy.

xii) That the Board delegate the authority to enact and implement the Fens Reservoir operational strategy to the Chief Executive engaging with the Chairman/Vice Chair, MLC Exec or Board as he sees fit.

xiii) That the Board acknowledge they will need to budget for un-recoverable external legal costs associated with the Fens Reservoir in future years.

xiv) That the Board approves that the MLC act as one on the Fens Reservoir with the impacted IDBs it administers. In that its employees, contractors and legal services also act for the impacted IDBs.

xv) That the Board support the need to review our planning/consenting charging model.

xvi) That the Board delegate the decision on use and implementation of PSCAs to the Chief Executive

xvii) That the delegation to the Chairman to make any decisions on important issues that maybe required regarding double cab pick-ups is approved.

B.3866 Consideration of payment/expenses for Chair and Vice Chair

The Chairman and Vice Chairman declared an interest in this item.

The Chairman advised the Board that neither he or the Vice Chairman took on these roles expecting any payment but the roles have changed and they seem to spend more time on Board business than ever before. The Chairman guessed that he had spent 250 hours this year, and the Vice Chairman thought he had spent a similar amount of time.

The Chairman and Vice Chairman then left the room.

The Chief Executive drew the Board's attention to page 22 of the agenda, and his proposal regarding the Chair and Vice Chair Renumeration, and he outlined its content. He added that legislation allows IDBs to pay their Chairs, but the Middle Level Acts allow only for expenses. He then asked the Board if they would be happy for him to develop a detailed proposal. Mr Boughton added he didn't think that it would be possible to pay a salary and therefore we must be focussed on expenses. The Reservoir development creates a special situation and proposed that if we approved the recovery of expenses that this is limited to the period of the Reservoir development and then review again afterwards. The Chief Executive advised that Chair and Vice Chair renumeration has been included in the revised SLA with Anglian Water. He added that this may not be agreed, but it has been included.

The Board went on to discuss the roles of Chair and Vice Chair and acknowledged that Chair and Vice Chair workloads have increased and are now much more onerous and bureaucratic. The difference between paying expenses and a salary was discussed and it was established that the renumeration would need to be expenses based, and that the roles would remain non-executive. The Chief Executive suggested that draft roles and responsibilities should be produced along with suitable evidence for auditability. Mr Allpress asked the Chief Executive how much he relies on the roles of Chair and Vice Chair, to which he responded they are a sounding board, they understand the organisation, and he gave some examples of when their support had been invaluable. Ms Morris moved to support the resolution, and Mr Raby suggested that with time it may be more difficult to find Chairmen and we need to consider the longer term. The Chief Executive agreed adding that this is why have an expenses policy to offset any loss of income is important. Ms Howell added that having an allowance may encourage people to stand for Chair in the future that may have avoided it due to loss of income.

Mr Boughton then proposed and Mr S Whittome seconded the motion, and all agreed that the Chief Executive should develop a proposal. The Chief Executive invited Board members to assist with the development, although those present indicated they were comfortable with the Chief Executive developing the proposal alone.

RESOLVED

That the Chief Executive to develop proposal for the Chair & Vice-Chair allowance.

B.3867 Annual Report of the Board to the Commissioners for the year 2023/2024

The Annual Report was taken as read and all agreed for it to be published.

B.3868 Finance and Governance

The Treasurer introduced Mr Andrew Wool to the Board, who has taken the role of Head of Finance which is to encompass the role of Treasurer as required under the Middle Level Acts.

The Treasurer referred to his Report and referred to the specific areas as detailed on the agenda.

Payments by Commissioners were taken as read, and the determination of annual values, rate arrears, and contributions from developers as presented in the confidential papers were reviewed. Both items were agreed unanimously.

The internal controls and risk management as presented were also agreed.
With the upcoming retirement of Mr Hill, the delegations given to the Treasurer will need to transfer to Mr Wool. However to ease the transition, it is proposed that the role of the position of Head of Finance is to include the appointment as Responsible Financial Officer of the Commissioners. This was agreed unanimously.

Mr Raby asked if there had been any assessment of the impact of the government budget announcements on employers National Insurance increases on employment costs. The Treasurer advised that a detailed assessment has not yet been made but estimates additional cost could be in the region of £45,000.

The Management Accounts were presented by the Treasurer and these were approved by the Board. The Treasurer confirmed that they had been externally audited and will be presented to the Commissioners meeting for approval following this Board meeting. The relevant notices have been displayed and Board members should have received a copy of the audit report compiled by Whitings.

Within their report, Whitings have recommended that MLC review the way the navigation account is managed. An Excel spreadsheet is still being used to manage the administration which has now developed significantly since the passing of the Navigation Act. It is proposed that the Finance and Navigation Officers visit the Conservators of the River Cam to review their IT system which was approved by the Board.

Other items that the auditor raised concerned processes and the Treasurer reported that these were a result of available resources, and that this is currently under review by the Chief Executive and Head of Finance. The Board supported this approach.

Ms Morris was surprised how much data is being collected in Excel and the extra time caused by multiple inputting of data that should only require doing once. She felt that looking at the figures in the report was difficult, and felt it was easier to read the auditors report. The Treasurer explained that the Commissioners are required to produce management accounts from which financial data has to be converted into the reporting stricture for the Annual Accounting Statements within the AGAR. The accounting principals for both being different. Further the auditors have advised that they consider that for an organisation such as the Commissioners accounting statements aligned to UK GAAP (FRS 102) accounting standards should be produced.

In producing the financial statements from the original core records there will therefore be differences and reconciliations between management accounts and the AGAR statements are produced for consideration within the Finance reporting.

- *As a point of reference, it should be noted that the Commissioners use Pegasus Opera as their core accounting software, which is built on the Microsoft platform and exports data in excel format.*

The Chairman added that the Head of Finance will be looking into the processes, and the Treasurer added that although changes could save time in the future, they may require additional resources. In response to Mr S Whittome the Treasurer reported that following District Audit being disbanded in 2015, external audit was replaced by the Limited Assurance Audit. We are now required to appoint an internal auditor (Whitings) to report to the Board and this gives the assurance to the external auditor. Our appointment of Whitings has followed a tender process, and a 5-year appointment was made last year. The External Auditor is appointed for us.

Mr Boughton asked about the large insurance claim shown in the accounts, and was advised that this was for the tractor claim where settlement has now been received from the insurers.

The Treasurer asked the Board to recommend that the Commissioners approve the accounts and internal audit. The Board agreed.

The Treasurer referred the Board to the summary on page 55 of his report and reminded them that the forecasted position was based on the position 2 weeks ago. The £100,000 variance at Bevills Leam is as a result of works needed to maintain operational capacity. The Banks & Channels are showing forecast over budget but there may be a further adjustment to this in January. Otherwise, the summary shows forecasting to budget but this will be reviewed again at the end of December for further review by the Executive Committee.

Because of the excess pumping in the previous financial year, the Highland Water figures are higher than previous years. When the rates were set at a high level earlier in the year, it was with the understanding that this would reflect significantly higher Highland Water claims. With the Storm Recovery Grant applications, a figure of £747,000 (tranche 1) claimed including some works at Bevills Leam and St Germans. Some of this money for pumping station repair works is currently still outstanding. When the budget was set it was anticipated that this money, if received, would be set against the Highland Water claim, and so there is an adjustment to make here.

Within the last few days, Tranche 2 of the Storm Recovery Fund applications have been discussed although it is still prudent to assume that these have been unsuccessful and there will be no further funding. There could be an opportunity to claim against works carried out at Bevills Leam so we are working on the basis that we will claim whatever we can. We don’t currently know where our applications sit within all the overall claims being made.

Mr Boughton asked about the £600,000 income shown from Tranche 1 and the Treasurer confirmed that this was the funding received by MLC, and the IDBs have received their own storm recovery funding separately.

Offset against this all are the Highland Water claim of £492,000 (net of storm recovery funding). He reported that we are starting to get indications from the Environment Agency that they do not have sufficient funding to meet the claims in full and it has been suggested that the previous years outturn balance could be paid in full with a reduction made against the 2024/2025 estimate, but at present there is no indication what shortfall might be. There should be more information available following a meeting with the EA next Thursday. The Chief Executive added that Highland Water payments are discretionary and have always been met in full. MLC and IDB’s have a right of appeal any decision not to pay these, and one of the resolutions in the pack refers to this.

The Treasurer continued, adding that overall, when the forecast was drafted over two weeks ago it was thought that the expenditure could be close to budget, and when setting the rates, the sum of £180,000 was included for the recovery of balances depleted in the previous year. Currently the forecast does not show these funda being achieved, however, the storm recovery (tranche 1) grant received is also not shown, and this is likely to be utilised as general fund balance recovery.

He referred to the uncertainty with the Highland Water Claim and possibility of receiving Tranche 2 funding against necessary works being carried out at pumping stations. He reiterated that everything will be done that can be to claim Tranche 2 funding and to appeal against any non-payment of Highland Water claims. The Chairman agreed that there would be a robust claim.

Mr J Heading asked if the Highland Water claim issue would also apply to IDBs and the Chief Executive confirmed that this is what has been understood. Mr J Heading added he found it extraordinary that we have no discretion over whether we accept the water and yet this is still the situation.

Mr Latta asked if there was any update on the precepts, and the Chief Executive updated that the RFCC took the decision to raise precepts by 2%. He added that we could appeal against that decision, but we must pay the precept. Highland Water is a ministerial decision.

As this would be Mr Hill's last Board meeting in the role of Treasurer, the Chairman invited the Board to recognise Mr Hill's long-standing contribution, and a round of applause followed. The Chairman added that the Board and Commissioners were all grateful for all of Mr Hill's work, and that Mr Wool would have a hard task ahead. Mr Hill gave his thanks, adding that he had enjoyed working with the Board, and knowing that Mr Wool would be treated with the same kindness and respect that he had received. Mr Wool added that the knowledge Mr Hill has is overwhelming at times, and the things that Mr Hill knows will be hard to get up to speed with.

The Chairman asked if there were any questions with the financial statements and if all were comfortable with the report. The Financial Reports were all agreed.

That the recommendations as listed in the Report are supported by the Board

<u>RESOLVED</u>

i) The Board examined and approved payments amounting to £688,241.54 during the period from 1st April 2024 to 30th September 2024.
ii) That the recommendations for determinations of annual values for rating purposes be adopted by the Commissioners.
iii) That the Chief Executive be empowered to serve notices and take such other action with regards to the determinations as may be necessary to comply with statutory requirements.
iv) That the Chairman and Chief Executive be empowered to authorise appropriate action on behalf of the Commissioners in connection with any appeals against determinations.
v) That the Commissioners be recommended to write off rate arrears amounting to £ 421.52
vi) That the Contributions from Developers have been noted as received.
vii) That the present policies concerning internal controls, risk management, budget monitoring be approved and continued.
viii) That the reports and comments of the auditors and the proposed actions regarding specific points be approved with the Chief Executive and Head of Finance authorised to take any further actions as they consider appropriate.
ix) That the role of the position of Head of Finance is to include the appointment as Responsible Financial Officer of the Commissioners.
x) That the role of the position of Head of Finance is to include the appointment of Treasurer to the Commissioners as required by the Middle Level Acts.
xi) That the person appointed as Head of Finance for the Commissioners be added to the Barclays Bank PLC mandate and be authorised to sign cheques and to authorise payments on behalf of the Commissioners.

xii) That the person appointed as Clerk to the Commissioners be added to the Barclays Bank PLC mandate and be authorised to sign cheques and to authorise payments on behalf of the Commissioners.

xiii) That the person appointed as Head of Finance be approved as a user and administrator on the Barclays Bank PLC internet banking platform as used by the Commissioners.

xiv) That following Mr Robert Hill leaving the employment of the Commissioners the Head of Finance be delegated the authority to appoint a member of the finance team to be an additional administrator on the Barclays Bank PLC internet banking platform as used by the Middle Level Commissioners.

xv) That the person appointed as Head of Finance be authorised to hold a debit card on the Barclays Bank PLC banking account.

xvi) That the person appointed as Head of Finance be authorised to hold a credit card in the name of the Commissioners and to be appointed as the administrator to the account.

xvii) For the Head of Finance to review the possible opening of an online banking account with National Savings and Investments.

B.3869 Miscellaneous Items

Complaints

The Chief Executive advised that complaints from developers have reduced to a handful, and that these are being worked through. He added that generally good feedback is received.

B.3870 Date of Next Meeting

Wednesday 30th April 2024 at 9.30am at Middle Level Offices, March.

B.3871 Any other business

Ms S Loyd advised the Board that MLC hosted a meeting with Defra and the EA at the Middle Level Offices in the previous week regarding the Environmental Stewardship margins in use by the IDBs. This was a positive meeting and it is hoped that improved guidance will soon be issued. It is hoped that this will have benefits for the IDBs.

Mr Raby raised a concern over the number of boats that have not paid their licenses. The Chief Executive advised that we currently receive around £200,000 income from licenced boats. It is estimated that there are between 40 and 60 unlicensed boats on the system but we are chipping away at these with the resources we have available. We have changed our approach to debt recovery by using a ‘no win, no fee’ agent, where previously we instructed solicitors which was much more expensive. This approach is starting to bear some fruit.

Ms Howell advised the Board that the Huntingdonshire District Council Local Plan consultation is currently open and encourages the Board to feed back.

The meeting closed at 12.15pm

Provided by the Middle Level Commissioners		**Item No:**	**4**
Meeting:	**MIDDLE LEVEL COMMISSIONERS**	**Subject:**	**CONSTITUTION & MEMBERSHIP**
Date:	**Wednesday 30th April 2025**	**Officer Responsible:**	**Polly Tombleson**

RECOMMENDATIONS

The Board is asked to:

A. Appreciation of Commissioners regarding recent notifications from Board members
B. Note the current status of its membership and the role they each play as members serving the interests of the Board.
C. Review attendance records and identify any resolutions as necessary.
D. Determine whether there are composition changes and/or amalgamations it wishes to progress.
E. Reinforce the need for members to view all five ‘Good Governance’ videos.
F. Identify any topic areas for additional training, as well as any inspection/site visit requirements.

1. Current status

1.1 The table below outline the current composition of the Board and the quorum as detailed in the standing orders.

	Elected Members	Appointed Members	Total Members	Quorum
Composition	15	N/A		
Actual	11	2 FDC, 1 KLWN, 1 HDC	15	5
Vacancies	4			

1.2 The table below details the current elected members of the Board:
There are currently **4** vacancies

No	Name	Status (one of four categories)	Commentary
1	Patrick Allpress	Landowner/ratepayer	
2	Duncan Boughton	Landowner/ratepayer	
3	Jonathan Brown	Landowner/ratepayer	Chairman
4	Robert Brown	Landowner/ratepayer	
	Lord De Ramsey	Retired from the Board Nov 2024	
	John Heading	Retired from the Board Nov 2024	
5	Marc Heading	Landowner/ratepayer	
6	Dr Derek Langslow	Representative of Wildlife Trust	
7	Mathew Latta	Landowner/ratepayer	
8	Andrew Lensen	Representative of A G Reserves	
	Samual Raby	Retired from the Board Nov 2024	
	Paul West	Resigned from the Board 3rd Feb 2025	
9	Hugh Whittome	Landowner/ratepayer	Vice-Chair
10	Stephen Whittome	Landowner/ratepayer	
11	Alison Morris	Landowner/ratepayer	
12			
13			
14			
15			

1.3 The table below details the current appointed members of the Board.

No	Name	Appointing Council as at July 2023	Commentary (one of three categories)
1	Sally Howell	HDC	Councillor
2	Chris Crofts	BCKLWN	Councillor
3	Dee Laws	FDC	Councillor
4	A Miscandlon	FDC	Councillor

1.4 Special levy paying District Councils appoint members to Boards and their role is to be part of the Board representing all the non-agricultural interests within the Board's district. The Council must consider appointing members who have relevant knowledge or experience that is relevant to the Board and its district.

1.5 Appointed members do not need to be councillors or employees of the Council, therefore can represent wider relevant interests within the district, eg major infrastructure, commerce, community groups, environmental interests.

1.6 All Members are reminded that have equal status to each-other around the Board table and are here to serve the interests of the Board.

2. Attendance

2.1 The table below outlines the attendance record for the last four meetings of the Board.

Elected Members

No	Name	7/11/2024	26/6/2024	24/4/2024	2/11/2023
1	Patrick Allpress	Present	Present	Present	Present
2	Charles Boughton	Present	Apologies	Present	Present
3	Jonathan Brown	Present	Present	Present	Present
4	Robert Brown	Present		Present	Apologies
5	Lord De Ramsey	Present	Apologies	Apologies	Present
6	John Heading	Present		Present	Present
7	Marc Heading	Apologies	Present	Present	Present
8	Dr Derek Langslow	Present		Apologies	Present
9	Mathew Latta	Present		Apologies	Present
10	Andrew Lensen	Present	Apologies	Present	Present
11	Samuel Raby	Present	Apologies	Present	Present
12	Paul West	Apologies	Apologies	Present	Present
13	Hugh Whittome	Present	Present	Present	Present
14	Stephen Whittome	Present		Present	Present
15	Alison Morris	Present		Present	-

Appointed Members (current and previous)

No	Name (Council)	7/11/2024	26/6/2024	24/4/2024	2/11/2023
1	C Crofts BCKLWN	Present	Apologies	Apologies	Present
2	D Laws FDC	Apologies		Apologies	apologies
3	A Miscandlon FDC	Apologies	Present	Present	Present
4	Sally Howell HDC	Present		Present	Present

3. Elections, vacancies & appointments

3.1 Current vacancies – April 2025 – **3**

3.2 Further to discussions at the April 2024 meeting of the Board, the Chairman to report on notifications received concerning members standing down from membership of the Board at the conclusion of the meeting.

3.3 Current Commissioner Declarations of Eligibility:

Private Land: Number Declared = 7 inc 2 deputies

Ref No	Surname	First Name	Business Name	Date of Claim	Year for Claim Review
MLCR10001	Allpress	Patrick	Allpress Farms Ltd		
MLCR10002	Boughton	Duncan			
MLCR10003	Brown	Jonathan	E C Brown & Sons		
MLCR10004	Brown	Robert	E C Brown & Sons	02/04/2025	2028
MLCR10005	De Ramsey	Lord	Abbots Ripton Estates	27/01/2025	2028
MLCR10006	Fountain	David	C J Fountain & Son Ltd	03/02/2025	2028
MLCR10007	Hartley	Christopher			
MLCR10008	Heading	John	A & EG Heading Ltd	01/04/2025	2028
MLCR10009	Heading	Marc	A & EG Heading Ltd		
MLCR10010	Latta	Mathew	R A Latta Farms Ltd		
MLCR10012	Morris	Alison	E H Morris (Stonea) Ltd		
MLCR10014	Raby	Sam	H Raby & Sons		
MLCR10016	Whittome	Hugh	Whittome Farms	27/01/2025	2028
MLCR10017	Whittome	Stephen	Whittome Farms	30/01/2025	2028
MLCR10018	Bragg	Alex	Royal London Asset Management/Waldersey Farms Ltd	11/02/2025	2028
MLCR10019	Hall	Mark	Royal London Asset Management/Waldersey Farms Ltd	11/02/2025	2028
MLCR10020	Smith	Jack	Royal London Asset Management/Waldersey Farms Ltd	11/02/2025	2028

Public/Charitable Land:

Ref No	Land Ownership: Organisation Name	Organisation Type	Surname	First Name	Organisation of Appointee	Date of Appointment	Year for Appointment Review
MLCR20001	Wildlife Trust	Charity (UK Based)	Langslow	Derek	Wildlife Trust	13/04/2023	2026
MLCR20002	AgReserves Ltd	Charity (Not UK Based	Lensen	Andrew			

4. Composition and amalgamations

4.1 The Board is encouraged to continually monitor and review its membership, financial and climate resilience, along with assessing its influence locally, regionally and nationally. These are all factors that may lead the Board to consider changing its composition and/or amalgamation with (an)other Board(s).

4.2 Amalgamations and composition changes are not swift processes and can take a number of years. They require planning and additional/specialist resourcing by the MLC as your clerk, Environment Agency and Defra. Therefore, the Board is encouraged to think ahead five to ten years in its decision making, thinking about the next generation.

5. Training

5.1 All Members are asked to digest the Good Governance Guide for Internal Drainage Boards published by the Association of Drainage Authorities and view the five accompanying videos intended to bring the guide to life. They are available via https://middlelevel.gov.uk/about/idb-governance/

5.2 To date 0 of 15 Board Members have reported viewing all five videos.
To date 9 of 15 Board members have reported viewing 2 of the five videos

5.3 Members are asked to identify any topics areas they would value further training on as well as any site inspections that would help them undertake their role on the Board more effectively.

5.4 Member training is reported to Defra as part of the annual IDB1 return.

Author Name: Polly Tombleson
Role: Senior Business Support Officer

middle level commissioners

Proudly managing water levels in the Fens since 1862

Proposal: MLC Chair responsibilities and renumeration

At their November 2024 meetings the Commissioners and Middle Level Board 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 their respective April 2025 meetings.

The Clause within Section 7 of the Middle Level Act 1810 disqualifies any person holding a place of profit from the Commissioners being a Commissioner and therefore we cannot make a payment to the Chairman, otherwise they could not be appointed as Chairman. This clause has not been repealed and therefore we cannot enact the payment clause within the Land Drainage Act 1991 S2(1) without risk of challenge. Therefore, an expenses approach needs to be applied.

Responsibilities of the MLC Chairman & Vice Chairman

The Commissioners current scheme of delegation and schedule of reserved matters do not specify the role and responsibilities of the Chairman or Vice Chairman. Therefore, if the Commissioners' are to introduce an expenses approach for these roles, then the responsibilities need to be defined and added to the scheme of delegation.

The following responsibilities have been adapted from those adopted by King's Lynn IDB who make payment for the Chairman role via a ministerial order under the Land Drainage Act 1991. It is recommended that the Chairman and Vice Chairman share these duties and therefore the expenses framework applies equally to each incumbent.

The Chairman is a strategic leadership role and accountable to the Commissioners for the running of the Commissioners Meeting, and the Middle Level Board and Executive Committee. Key responsibilities include;

1. Setting the agenda, style and tone of discussions and chairing meetings, to promote effective decision making and constructive debate;
2. Providing representative, objective and inclusive leadership;
3. The Commissioners' declarations and governance, Midde Level Board composition, membership, development and succession;
4. Overseeing the induction and development of newly declared Commissioners and new Middle Level Board members;
5. Securing active contributions from all Middle Level Board members;
6. Addressing any Commissioners and Middle Level Board Member conduct and/or performance issues;
7. Planning and conducting meetings effectively;
8. Deciding whether or not a member can vote on any issue, where the member has a prejudicial interest as set out in the Code of Conduct and the Standing Orders;

9. Ensuring the Commissioners and the Middle Level Board focus on priority tasks, key risks and take decisions in the short, medium and long term interests of the Commissioners' and beneficiaries of their infrastructure and operations;
10. Promoting effective relationships and open communication, both inside and outside the boardroom between Commissioners, IDB Chairman and the MLC employees;
11. Leading the recruitment of the MLC Chief Executive;
12. Establishing a close relationship of trust with the Chief Executive, providing support and advice, whilst respecting executive responsibilities;
13. Being a positive role model and representing the Middle Level publicly, locally, regionally and nationally;
14. Play a figurehead and active role within the Middle Level IDB reform agenda;
15. Understanding the diverse aims and views of the Commissioners, other landowners, ratepayers, Local Authorities and other key beneficiaries and stakeholders of the MLC's infrastructure and operations;
16. Developing and maintaining a good awareness of the legislative and statutory responsibilities that underpins MLC operations and our services to other IDBs, and how compliance, risks and liabilities are managed to ensure a strong reputation and risk exposure is limited;
17. If required, determine employee appeals under the Commissioners' Disciplinary Procedure and negotiate agreement with IDB Chairman should there be a dispute in terms of MLC service provision that the Chief Executive cannot resolve due to their conflict of interest;
18. Delivering any actions as resolved by the Commissioners or Middle Level Board within their meetings.

The Chief Executive has executive responsibility for running the Commissioners' business with key responsibilities for the Chief Executive, Chief Engineer and Treasurer (Head of Finance) specified in the scheme of delegation.

To enact the responsibilities, the Chairman and Vice Chairman are expected to commit time over and above that expected by any other member of the Middle Level Board and its Executive Committee. Expenses for the additional commitment will be payable as follows.

- Casual mileage and subsistence allowances in line with HMRC guidance and to be claimed quarterly via an expenses form supported with receipts.
- Payment of an hourly rate for lost time from employment. Each incumbent will need to provide evidence of earnings to propose and justify their hourly rate (to be reviewed annually) and this will need to be agreed by the Treasurer (Head of Finance) and the Chief Executive. Expenses claims to be made quarterly and supported by a timecard outlining the activities and deliverables associated with the claim.
- Expenses to be reviewed and approved by the Chief Executive and reported to the Commissioners at their November meeting.
- Treasurer (Head of Finance) to undertake spot-checks on expenses claims as they do for all employees. These will also be subject to internal audit review.

The budget provision for these expenses to the Chairman and Vice Chairman will be £5,000 per annum with the level of the budget reviewed annually.

Recommendation:

The Middle Level Board and the Commissioners are asked to review this proposal and approve or otherwise the adoption of it. If adopted, the Middle Level Board and Commissioners:

- Authorise the Chief Executive and Head of Finance to develop the forms and adjust internal controls to implement the expenses approach.
- Authorise the Chief Executive and Head of Finance to review, approve or reject expenses payments and agree the hourly rate proposed for lost time from employment.
- Authorise the Chief Executive to change and re-publish their scheme of delegation and schedule of reserved matters.

Paul Burrows
Chief Executive, Middle Level Commissioners
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27 March 2025