

MINUTES of the Court of Verderers held on Wednesday 20th October 2010 at 9.30 a.m. in the Verderers' Hall & Library, The Queen's House, Lyndhurst.

PRESENT:	Mr O Crosthwaite Eyre DL	Official Verderer
	Mr R Deakin	Elected Verderer
	Mr A Gerrelli	Elected Verderer
	Mr J F Kitcher MBE	Elected Verderer & Chairman of the Staff Committee
	Miss D Macnair MBE	Elected Verderer
	The Hon Mr R Montagu	Forestry Commission Appointed Verderer
	Mr A H Pasmore	Elected Verderer
	Mrs P Thorne	DEFRA Appointed Verderer
	Mrs D Westerhoff	Natural England Appointed Verderer
IN ATTENDANCE:	Miss S Westwood	Clerk to the Verderers
	Mr J R Gerrelli	Head Agister
APOLOGIES:	Mr C Maton	National Park Appointed Verderer

IN COMMITTEE in the Library

2010/5141 MINUTES OF THE LAST MEETING RESUME

The Minutes of the Court held on Wednesday, 15th September 2010 were approved.

2010/5142 CONDITION OF STOCK RESUME

The Head Agister said he is fairly happy with the condition of stock at the moment. The drifts, which are coming to an end, have been quite successful and the majority of the animals are looking well. Mares without foals look exceptionally well. The condition of the ponies has improved since the start of the drift season when the dry weather meant that there was not much food on the Forest. Fortunately following some rain, things have improved greatly.

Unfortunately some ponies are eating acorns and in the past three or four days, six or seven deaths have been reported. The effects of acorn poisoning take a while to show and it is likely more animals will succumb in the months to come. There are a lot of acorns on the ground and a lot left to come down. They have, however, been falling fairly steadily which may have reduced the opportunity for ponies to eat large quantities all at once.

One case of strangles has been reported, at Mill Lawn, Burley. The pony was taken in and subsequently put down. As this occurred several weeks ago, it is assumed no others are affected.

2010/5143 BYELAW ENFORCEMENT DISCHARGE

The Official Verderer asked the Head Agister to pass on the Court's thanks to Agister Robert Maton for pursuing and obtaining marking fees from the commoner who claimed he was unable to pay due to acute financial difficulties. It is understood the commoner has now sold his stock.

The Head Agister left the meeting.

- 2010/5144 ANNOUNCEMENTS AND DECISIONS RESUME
- The announcements and decisions were approved.
- 2010/5145 DECLARATIONS OF INTEREST RESUME
- The Elected Verderers and Mrs Thorne declared an interest in the Higher Level Stewardship Scheme.
- 2010/5146 FINANCIAL STATEMENT RESUME
- The Financial Statement for September 2010 was approved.
- 2010/5147 REPORT ON MARKING FEES RECEIVED AS AT END OF SEPTEMBER 2010 RESUME
- | | | | |
|-----------|------|-------------------|------|
| Ponies | 4803 | Pigs | 106 |
| Cattle | 2232 | Sheep | 153 |
| Donkeys | 117 | | |
| SUB TOTAL | 7152 | TOTAL ALL ANIMALS | 7411 |
- 2010/5148 ANIMALS REMOVED IN SEPTEMBER DUE TO POOR CONDITION RESUME
- 1 mare with a foal
2 mares
3 cattle
- Total year to date (September) - 557
Total ponies removed November 2009 - May 2010 inclusive - 579
- 2010/5149 BYELAW ENFORCEMENT RESUME
- There are currently no known byelaws infringements.
- 2010/5150 NATIONAL PARK AUTHORITY CORE STRATEGY DISCHARGE
- The Inspector's decision on the Core Strategy & Development Management Policy has now been received. The Inspector has concluded that the Core Strategy is 'sound' and provides an appropriate basis for planning within the National Park up to 2026, and should be adopted, subject to a very limited number of changes. The Strategy should be formally adopted by the Authority in December.
- 2010/5151 HOLMSLEY LODGE DISCHARGE
- Miss Macnair expressed concern that Holmsley Lodge is being demolished. She felt that the façade is of historical importance to the Forest and should be retained.
- The Official Verderer pointed out that the Court's policy is not to become involved in private planning issues unless they directly affect commoning and this is not, therefore, something in which the Verderers can become involved.

ENCROACHMENTS

2010/5152 ENCROACHMENTS – HOME FARM, BARTLEY RESUME

The letter from the solicitors acting for the CDA and the Court which stipulated a deadline for the encroachment to be abated, resulted in a swift response from the solicitor acting for the developer responsible for the alleged encroachment. The solicitor has asked for an extension in order that he may undertake some research in order to properly advise his client. This was agreed and the deadline was extended and has not yet expired.

The first invoice for fees from the Court's/CDA's solicitor has been received. It is in the region of £8,000 and this will be split 50/50 between the CDA and the Court as agreed.

The CDA is doing an excellent job in evidence gathering . Counsel will provide his Opinion once all the evidence has been obtained and if the other side does not back down. Whilst a successful outcome in a Court of Law would undoubtedly be a serious deterrent to anyone else thinking of appropriating a piece of the Forest, the removal of the encroachment without recourse to the Courts would of course be welcome and would still set a precedent to which reference can be made in the event that further cases arise.

2010/5153 ENCROACHMENT – CANTERTON LANE RESUME

The Clerk wrote to the owner of the property where an encroachment lay-by has been enclosed. The owner has agreed to move his fence-line back to its correct position but has asked to be allowed some time to do the work because of prior commitments. This has been agreed. The Clerk will remind the gentleman that he has promised to move the fence in a few weeks time.

2010/5154 ENCROACHMENT - KINGSTON GREAT COMMON DISCHARGE

The Head Agister inspected the fence. In his view it has been moved at some time in the past, but he does not believe it has resulted in any loss of grazing.

In view of the legal complexities of Kingston Great Common, the Court reluctantly decided, without prejudice, not to pursue this issue any further at present.

OPEN COURT – 10.00 a.m. in the Verderers' Hall

IN ATTENDANCE: Mr Mike Seddon, Deputy Surveyor of the New Forest
Mr Mark Street, Area Land Agent (New Forest)

ANNOUNCEMENTS AND DECISIONS BY THE OFFICIAL VERDERER

2010/5155 HIGHWAYS FENCING

At our last Court the New Forest Commoners Defence Association made a presentment bringing to our attention the dilapidated state of repair of the fencing alongside the A36 at Wellow that prevents animals from gaining access to the highway from the National Trust's land in that area.

We have, as requested, raised this very worrying matter with the National Trust and Wellow Parish Council, and asked them to remedy the situation as a matter of urgency. I am very pleased to report that both organisations have agreed to completely replace the fencing and create a properly stockproof barrier to prevent the risk of any accidents happening again on the A36 involving stray animals.

However, the National Trust has pointed out to us that it does not accept responsibility for the maintenance of this stretch of fencing. The Highways Agency in turn insists that the maintenance is not its responsibility either. Clearly a major effort will now be needed in order to find a means of resolving this serious issue.

As we understand it, the fencing on the A35, A337 and A326 is the accepted responsibility of the Local Highway Authority whilst the Highways Agency does maintain the A31 fence. It seems reasonable, therefore, to ask the Highways Agency to assume responsibility for the A36 fence as well, in order to finally resolve a problem that dates back to the 1964 New Forest Act!

One way or the other, we are grateful to the Trust and the Parish Council for agreeing to take action so swiftly and at their own expense.

2010/5156 CAMPSITES SURVEY

Last month the New Forest Association kindly presented us with a copy of the newly completed Forest Campsites Survey which, at our request last year, the Association generously agreed to help fund and organise.

The survey is without doubt going to be a vital tool for this Court when dealing with any recreational development proposals in the years ahead, and it provides an essential benchmark showing exactly what exists on the ground from, tree coverage to dragons teeth, on each of the Forest's campsites. We are grateful to Forest Holidays and the National Park Authority for providing cash funding towards the cost of this survey.

The next immediate step is for the interested parties, in particular the Forestry Commission as landlord and Forest Holidays as tenant, to formally agree that the detail contained in the survey is an accurate reflection of the infrastructure and natural features on the camp sites as they are now.

2010/5157 MARKING FEES

We will be reviewing the level of marking fees this morning, as we do every year at this time, and an announcement will be made at next month's court.

2010/5158 REFLECTIVE PONY COLLARS

We have always encouraged the fitting of reflective collars to ponies, particularly those which roam close to the worst roads in the Forest for road traffic accidents such as the B3078 and the B3054. To that end we supply free collars to any owner who requests one.

The National Park Authority also supports the collars and we would like to thank the Authority for kindly funding a new display board encouraging commoners to fit collars on their ponies when they come in on the drifts.

2010/5159 CONTROL OF DOGS

In April the owner of a dog which attacked a Forest donkey was prosecuted in Lyndhurst Magistrates Court for failing to control his dog on the Open Forest. The Magistrates ordered that the dog should be kept under control, that it should be neutered and that £124 should be paid in compensation to the owner of the injured donkey.

We hope this sends a clear message that dogs must at all times be kept under control and if a Forest animal is attacked, the police will prosecute.

ANIMAL ACCIDENT REPORT

2010/5160 ACCIDENT REPORT FOR SEPTEMBER 2010

The Agisters attended 13 accidents, compared with 17 in the same period last year.

4 ponies and 2 cattle were killed.

1 pony and 1 cow were injured.

9 accidents occurred during the hours of darkness.

9 involved private cars or light commercials

2 accidents were not reported and have been logged as hit and runs.

6 involved local motorists.

The total killed and injured for the year to date is 60 compared with 68 for the same period last year.

The Clerk went on to ask the press to remind motorists of the need to take extra care now that the days are getting shorter and the clocks will change in a week or so. Additionally, ponies are unfortunately being attracted to the roads by falling acorns which makes them particularly vulnerable.

The Official Verderer commented that as the weather gets colder, salt and grit on the road will also attract stock to the roads.

PRESENTMENTS BY THE DEPUTY SURVEYOR OF THE NEW FOREST

There were no presentments by the Deputy Surveyor

PRESENTMENTS

2010/5161 FUNGI
Presentment by Mrs Sara Cadbury from Brockenhurst

Mrs Cadbury expressed concern about the apparent increase in collection of fungi fruiting bodies all over the Forest, in large quantities which she feels is extreme exploitation of one of the fragile resources of the area. The allowance of 1.5kg per day is being abused by commercial pickers and Mrs Cadbury asked for a total ban on fungi collecting in the Forest.

Commercial pickers may also be responsible for a certain amount of disturbance to wildlife as they trawl through the Forest, often a long way from tracks or paths.

Mrs Cadbury felt in this Year of International Biodiversity, it is sad that the New Forest has been reluctant to take any worthwhile measures to protect this important habitat. She went on to say she understands Epping Forest has a total ban on all fungi picking, because that is the only way the problem can be policed.

IN COMMITTEE in the Library

CONSIDERATION OF PRESENTMENTS

2010/5162 FUNGI DISCHARGE

The Deputy Surveyor explained that the Forestry Commission does have a code for mushroom picking. Collection for personal use is permitted, whilst commercial collection is discouraged. The limit is 1.5kg. In a couple of woods, all picking is discouraged and the Keepers take action to prevent it.

The Deputy Surveyor went on to say that mushroom picking is phenomenally difficult to control. He expressed interest in the Epping Forest licensing system, in particular under what legislation permits formal control. The Forestry Commission's byelaws do not mention fungi whilst Epping Forest's do.

It was suggested that taking of fungi may be classed as theft but evidence would be needed.

The Verderers promote and support the code of conduct allowing for picking by private individuals. Commercial picking is, however regarded as exploitation and violation of the Forest and should not take place. The Official Verderer will write to Mrs Cadbury.

NEW SUBMISSIONS AND OTHER MATTERS RAISED BY THE FORESTRY COMMISSION

2010/5163 CYCLE ROUTE AT CULVERLEY GREEN RESUME

The Forestry Commission sought the consent of the Court for approval of a specific request from Brockenhurst Parish Council to formalise a cycle route that has developed on the public footpath across Culverley Green, running from Wilverley Road through to the Primary School. The reason for the request is to provide a safe link to the school which might encourage more children to cycle and to provide an option for parishioners to link from the Sway Road towards North Weirs. A standard Forestry Commission cycle-way marker at

either end will be required, i.e. 2 in total on what is a pre-existing path.

The Forestry Commission does not believe this proposal to be controversial and therefore necessitating a presentment in Open Court. The Court, however, was not wholly in agreement with that point of view but agreed that the views of the Commoners' Defence Association and the New Forest Association should be sought, by letter, prior to consent being given.

MATTERS ARISING OF CONCERN TO THE FORESTRY COMMISSION

- | | | |
|-----------|--|---------------------------|
| 2010/5164 | A36 FENCING | RESUME |
| | <p>Efforts will be made to persuade the Highways Agency to take over responsibility for future maintenance of the fence now that the National Trust and Wellow Parish Council have agreed to replace it. A letter will be sent to as many organisations as possible, including possibly the local MP and the MP for Romsey seeking support for a joint approach to the Highways Agency.</p> | |
| 2010/5165 | CAMPSITE SURVEY | RESUME
January
2011 |
| | <p>The Deputy Surveyor will respond to the campsite survey at the earliest opportunity.</p> <p>The New Forest Association has arranged a presentation of the survey on Monday 25th October. Mr Deakin said he would attend.</p> <p>The Deputy Surveyor said the Camping and Caravanning Club will take over running the sites and Mr Spencer Pettit of that organisation together with Mr Richard Palmer of Forest Holidays are coming to see him in November.</p> | |
| 2010/5166 | MAINTENANCE OF STOCK POUNDS | RESUME
January
2011 |
| | <p>Evidence of an attempt to create an agreement between the Forestry Commission and the Court as respects this has been found. It appears however that it was never completed. There is an opportunity now to take this forward to set out who is responsible for what as regards the pounds.</p> | |
| 2010/5167 | NORTH BENTLEY POUND DRIFTWAY | DISCHARGE |
| | <p>The Staff Committee has reported that the access road to this pound is in a dreadful condition. The pot-holes are a serious problem as the road is a mixture of gravel and concrete. The concrete has partially broken up and the surface is so bad that commoners drive round it. The problem has been exacerbated by the bracken dump used by the Forestry Commission which results in a greater number of vehicle movements. The Forestry Commission agreed to look at the road to see what can be done to improve it.</p> | |
| 2010/5168 | BURLEY OUTER RAILS / WOOLFIELD HILL COTTAGE | RESUME |
| | <p>The Official Verderer is waiting for Mr Street to contact him.</p> | |

situation will be reviewed and obstructions removed.

Mr Pasmore said he believed some obstructions do remain to which the Deputy Surveyor said the situation will be reviewed and if there are debris dams in existence they will be removed. This can be carried out through the Open Forest Advisory Committee (OFAC).

The meeting then went on to discuss specific issues raised in Mr Pasmore's paper.

There is disagreement over Area 1 and the Deputy Surveyor proposed that a further inspection be undertaken following some significant rainfall. Mr Pasmore, however, said water is running flooding down through the wood. It was suggested, therefore, that he meet Mr Richard Stride (FC) on site to consider the issues.

The Deputy Surveyor said he will not authorise any further works on this site until after this winter. He said that due to pressure of work he cannot inspect the site personally until at least the end of November. He has two utterly conflicting views from two respected people. Mr Pasmore suggested that the matter be reconsidered in December. He added that the grazing interests must be taken into account as well as those of conservation.

2010/5175 PREVIOUS RESTORATION WORKS

DISCHARGE

The heather bales used in restoration works at Claypits and certain other places are creating a hazard to stock and the public.

When the use of heather bales was first introduced it was agreed that the strings on the top bales must be cut to prevent stock trapping legs between the bales. This is not always being done, resulting in some very dangerous situations. In addition, in places, the heather bales have settled, leaving stakes protruding up to 8 inches to a foot above them. These are very dangerous. At Claypits the ford has deep clay holes and recently a riding horse sunk up to its belly.

It is accepted that the heather bales take time to rot and/or settle but a review of all the previous restoration sites is needed.

The Deputy Surveyor said he will come back to the Court on these matters. He added that he felt it may well be useful for Mr Dave Morris to join the next Verderers' Staff Committee meeting. This would give the Elected Verderers and Agisters an opportunity to voice their concerns and Mr Morris will then report back or take appropriate action.

OTHER BUSINESS OF CONCERN TO THE FORESTRY COMMISSION

2010/5176 BRICK KILN INCLOSURE

DISCHARGE

The Forestry Commission has written to the Court advising that his inclosure is to be re-fenced as at 18th October. The Court appreciated this notification.

2010/5177 HOPE/BOUNDARY COTTAGE, BRAMSHAW TELEGRAPH DISCHARGE

The occupiers of this property are still parking vehicles on the Forest. There are always at least four cars outside, 2 on the gravel but 2 on the grass, plus the Fish and Chip van and other vehicles. Mr Street said he will take action which may include a threat to remove the parking permit altogether.

2010/5178 PROTECTION OF ANCIENT MONUMENTS – PROPOSED USE OF CHICKEN WIRE DISCHARGE

A suggestion was made in the HLS Working Group that chicken wire could be used to protect ancient monuments from rabbit damage. However, the Court is feels this could be dangerous to stock and is therefore not acceptable. Chicken wire is not substantial enough to withstand the attention of cattle and ponies. The Deputy Surveyor said he will take on board the Court's concerns. He commented that geotextile materials have been used to good effect in the past and these may provide an acceptable alternative.

2010/5179 AMENDED KEEPER'S JOB DESCRIPTION DISCHARGE

The Deputy Surveyor advised the Court that Keeper Graham Wilson is now Keeper - Estates. He will retain his beat but approximately 50% of his time will now be taken up with supporting the Land Agent and the other Keepers in resolving issues of minor encroachments, illegal parking, illegal signs etc. The Court welcomed this extension of Keeper Wilson's duties.

The Deputy Surveyor and Mr Street left the meeting.

OTHER MATTERS ARISING FROM THE MINUTES OF THE LAST COURT AND PREVIOUS COURTS

2010/5180 MARKING FEE REVIEW DISCHARGE

The Official Verderer advised the Court that, in the light of the expected cut of in the region of 25% in Defra's budget over the next four years, the Court should brace itself for those cuts being passed down the line. The Deputy Surveyor has already formally indicated that the administrative grant will be frozen for the next five years, and inevitably this will be followed by an actual reduction in the grant that is proportionate to that which will be imposed on Defra in today's Public Spending Review. The Official Verderer has been assured by the Deputy Surveyor that, if actual cuts are required to be made in the Court's grant, then a suitable timeframe and structure for its implementation can be negotiated.

After consideration of the Court's financial position, and taking the distinct possibility of at least a 25% cut in the grant over the next four years in to account, it was reluctantly agreed that marking fees cannot continue at the current level.

It was resolved, therefore, that with effect from the 1st January 2011, the £2.00 discount for marking fees in respect of ponies and donkeys paid before the 1st February will be discontinued. Additionally, on 1st January 2012 the marking fees will increase across the board by a

minimum of £1.00 per head. The increases are much regretted and efforts will be made to identify ways in which the HLS scheme can be used to cushion the effect of the increase, but it was felt that the Court has no option.

The Official Verderer proposed the Court adopt this resolution, Mr Gerrelli seconded it and it was passed unanimously. An announcement will be made in November's Court and it will be included in the next newsletter.

The Court's general expenditure will also be scrutinised and costs will be reduced wherever possible.

VERDERERS' HIGHER LEVEL STEWARDSHIP SCHEME (HLS)

2010/5181 SSSI RESTORATION AND THE HLS SCHEME DISCHARGE

Mrs Westerhoff expressed concerns at the attitude of the Court in respect of some of the restoration works that are taking place on the Forest. She commented that an important component of the HLS Scheme's objectives is the restoration of areas of the New Forest SSSI which are considered to be in unfavourable condition. This is part of the agreement to which the Court signed up to. For example, Latchmoor is unfavourable/improving, but if the works proposed are not carried out the unit will not be properly restored.

In response, it was pointed out that all restoration work which takes place on the Forest must have the consent of the Court and this has never been disputed. The Commoning system must be supported and restoration works have always been about compromise.

Natural England's primary concern is the conservation benefit, and undoubtedly there are grazing benefits in some cases. However, there must be a balance.

Mrs Westerhoff said that there is going to be another meeting at Latchmoor. She added that in her opinion there are significant benefits for grazing within the proposals and she hopes the Verderers will give the full scheme due consideration.

2010/5182 THE USE OF IVERMECTIN AND THE HLS SCHEME DISCHARGE

The HLS Management Committee has agreed a modification to the rules of the scheme to stipulate that ivermectin based wormers must not be used on Forest stock whilst the animals are running on the Forest. A letter is to be sent to all members of the scheme pointing this out and advising them that animals that have been wormed with ivermectin based products must be kept off the Forest for 2 weeks.

2010/5183 HLS SCHEME BOARD MEETINGS AND WORKING GROUPS DISCHARGE

The Official Verderer will circulate the minutes of the HLS Board meeting. He reported that all the projects selected by the Verderers have been agreed.

The working groups will debate and decide which ideas should be taken forward to become projects. However these groups do not

make the final decision on what will and will not go ahead. Only the Board makes the decision about which projects are to go ahead.

The terms of reference for the working groups are to be amended. The only people allowed to vote will be the official representatives of the three HLS Partners in equal proportions – usually one vote each.

The minutes of the Board Meeting have also been amended to reflect the agreement that it is the appointed representatives that will attend, not necessarily the chairs of the organisations.

The decision of the Verderers' Court cannot be prejudiced by whatever decisions are taken and it is completely understood that the HLS Board cannot over-ride the statutory duties of the Partner organisations.

It was also agreed that representatives of the organisations should use their judgement on what they report back from the working groups as it is usually unnecessary to report on everything that is discussed.

Mr Caswell has invited Mrs Westerhoff to attend the groups. The Verderers present at each meeting must decide who is voting.

NEW FOREST NATIONAL PARK

There was nothing to report at this meeting.

OTHER AGENDA ITEMS

2010/5184 STALLION SCHEME

RESUME
January

The Official Verderer requested that the Stallion Scheme Sub Committee meets before the end of the year. The Clerk said she is preparing a paper which she hopes will be useful to the Sub Committee.

2010/5185 YOUNG COMMONERS

RESUME
December

'The Young Commoners' are a sub group of the Commoners' Defence Association. They approached the Official Verderer as they wish to raise their profile and to this end they would like to address the Court. The Court agreed to this suggestion and will be happy to meet The Young Commoners on Friday 10th December at 2.00 p.m. in the Library.

2010/5186 THE ATLAS PROJECT

DISCHARGE

The Clerk asked if members of the Court would like to attend a training course on the new GIS system. Mr Pasmore expressed an interest. Training will be arranged as soon as possible.

MATTERS ARISING FROM EXTERNAL COMMITTEES AND WORKING GROUPS

None

STAFF MATTERS (including the Staff Committee)

2010/5187 SALARY REVIEW

DISCHARGE

Following a paper meeting of the Remuneration Committee, the Court approved the Committee's recommendation to increase staff salaries by 2.756%, in line with this year's Agricultural Wages Board award.

It was pointed out that the AWB is being axed and an alternative system for reviewing staff salaries will therefore need to be found.

It is thought that the National Farmers' Union may have some suggestions but it was agreed to wait and see if anything takes the AWB's place.

TRAINING

RESUME

No training is being undertaken at present (with the exception of the Atlas Project).

HEALTH AND SAFETY AT WORK

RESUME

2010/5188 EMPLOYER'S AND PUBLIC LIABILITY INSURANCE

RESUME

The Clerk reported that the Head Agister and herself are shortly to meet with a representative from the Court's insurers to discuss the health and safety policy and procedures.

ANY OTHER BUSINESS

2010/5189 IDENTIFICATION OF PONIES

DISCHARGE

Miss Macnair commented that she met Dr Mark Kennedy from Anglia Ruskin University who has been commissioned by the RSPCA to undertake a study of methods of identifying equines.

Miss Macnair expressed concern that Dr Kennedy's brief was too restrictive in that it did not appear to take into account practicalities, costs, the stress factor of handling the stock (as opposed to the actual branding procedure) as well as follow up after the various methods that are currently used. She went on to say that she has heard reports of abscesses occurring after microchipping and that there is a risk of introducing tetanus if the site is not clipped and thoroughly cleaned prior to the chip being inserted.

Mr Pasmore said he has also spoken to Dr Kennedy and received an entirely different impression. He felt Dr Kennedy is approaching the study with a very open mind and is considering all angles. The Clerk suggested she should go back to Dr Kennedy and let him know about Miss Macnair's concerns.

There was no further business and the meeting closed at 1.05 p.m.