
NATIONAL ASSOCIATION of BOAT OWNERS

News from the Committee Meeting . . .
...held on 12th Sept. 1992 at Hockley Port on the BCN.

Membership is now 821.

The Treasurer reported continued bouyancy in the accounts.

A stand is now available for display at waterways functions/rallies etc. Many thanks to the member who provided this expensive equipment without charge. The first outing for this will be at the Greyhound Gathering at Burton on Trent.

NABO will be providing a Bi-monthly article for Canal and Riverboat.

Jon Darlington will continue editing the Boater due to the unavailability of Vic Brown.

Reports were received from Committee members who had attended a variety of Consultation meetings with BW and the Black Country Development Corporation (BCDC) over the Ridgacre branch of the BCN.

Approval was given to a letter to BW asking for their support for continued navigation of the Ridgacre Branch of BCN. It is expected, however, that BW will announce in the next few days that permission will be given to the BCDC for a low level crossing thus permanently cutting off navigation. See also the notice on page 6.

Penny Barber also reported on a committee meeting of the Residential Boat Owners Association. A report will appear in the next Boater.

Members are reminded of the date of the AGM which is at 2.00 pm on Saturday 28th November 1992 at Doctor Johnson House, Bull Street, Birmingham City Centre. Further details will be given before the event. You are also reminded that nominations for the Committee, and/or resolutions should be sent to Jane Green by Saturday 17th October 1992. We are still short of candidates for committee posts. If you would like to be on the Committee, but do not know any other NABO members, please contact any of the Committee members, or just write to Jane Green at the address on the front of this newsletter.

A report was received that British Waterways Charges have been increased by 2% for next year. (See below)

It was also reported that the end of garden moorings case had been won by BW. Concern was expressed that attempts might be made to reclassify moorings, with consequent increased charges. A full report on the judgment appears on page 4.

A long discussion took place about the BW Customers Charter. Members had many reservations about the value of this to Boaters. Superficially, it appeared to offer benefits, but interpretation and a lack of sanctions could leave us little better off than we are now. A report is included below.

Generally there is a considerable delay in getting information from British Waterways. A letter detailing answers to some of our questions was noted, it having taken some 3 months and two reminders to achieve a reply.

A Sub-committee has been formed for 'action' on the BW Bill during its progress through the Commons and in Committee.

It was noted that boaters had been informed that CofCs (Boat Standards) have been set aside pending EC approval unless you wish to take the £20.00/annum Bribe.

1993 Licence Fees.

Members will recall that in a submission to BW we made a case for a price standstill on mooring and licence fees for 1993. BW have announced that the increase will be 2% across the board which is less than inflation. Furthermore they have agreed that increases for the next three years will not exceed inflation. We believe that this is a victory for common sense and the lobbying of NABO.

Customer Charter.

The last meeting of the Committee spent a good deal of time going through the Draft Customer Charter line by line and are now preparing a detailed response to be sent to BW (the first thing we want is for it to be called a Users' Charter!). The next issue of the Boater will contain a summary of what we have said but the document is too large to reproduce in full. If you would like a copy of our comments please send Dave Green a cheque or postal order for £1.00 (to cover copying and postage costs) made payable to "National Association of Boat Owners". Copies of the draft charter are available free of charge from BW Customer Services Department, Willow Grange, Church Road, Watford, Herfs. WD1 3QA.

GU South.

The NABO Chairman attended a meeting chaired by Waterways Manager Caroline Clark who is responsible for Grand Union South. Several other NABO members were also present. Caroline confirmed that the ridiculous rule of mooring for a maximum of 14 days (in any one year) anywhere on the Tring summit (also applied to Leighton Buzzard and Cowley/Uxbridge) would not be enforced in respect of "genuinely cruising boats" but would not concede that the rule should be "14 days max. no return in 28 days". We will write to her further on this. She is also determined to get rid of unauthorised residential boats. However this is not a simple problem and is almost entirely of BW's making. Harassing people or forcing them to move on a bit cannot be the right approach where people's homes are concerned. We are seeking further discussions on this point.

Where top gates are replaced they will in future be fitted with two gate paddles on each gate which is good news indeed. The refurbishment of all sanitary stations is a priority as is finding tips that can be licenced for the disposal of dredgings. Caroline believes that her entire patch can be dredged to a minimum of 3 feet within three years and 4'6" within ten years. At today's prices the estimated costs are £250K and £1.3m respectively. The dredged channel width will be 17'6" above Berkhamsted and 35' below since BW regard the GU above Berko as a narrow gauge canal. A position with which many vehemently disagree.

There have been no summer restrictions on this length in the last three years and it is intended that there will not be in the future.

BW support the complete restoration of the Wendover Arm to Aston Clinton and believe that phase 1 (to a winding hole above Little Tringford Bridge) could be open in 1994/5. The Wendover Arm Trust have done a great deal to make this a realistic objective.

Minor stoppages may take place at short notice in the Spring and Autumn between 0700 and 1000 hrs to take advantage of weather to get minor repairs done.

Whilst the audience (including the NABO reps) took exception and disagreed with a number of points made there is no doubt that Caroline is enthusiastic about her patch and also the need to listen to the advice of the users. Further meetings will be held at six monthly intervals.

End of Garden Moorings Case

1. Well, BW have won. Not because they presented a good case but because...well, see what you think!
2. Prior to 1965, there were two licences, a cruising licence and a mooring licence. These were amalgamated in 1965, with an amalgamated fee. There was then a general right to moor, but licensees would pay landowners for the use of the land they moored against. One of the landowners was, of course, BW who issued mooring permits for sites they operated. BW's mooring permit conditions (issued in 1973) stated "mooring at sites not in the Board's ownership where mooring is permitted (by the owner and with due regard to the requirements of navigation) is subject to whatever arrangements are made between the boatowner and the site owner, and does not require a mooring permit from the Board."
3. There is no indication from the current licensing conditions (which go back to 1983 at least) that this position has changed.
4. Licence condition 1 states that the Boards Pleasure Boat Licence "authorises the use of the boat" on their waterways available for pleasure cruising. The defendants contended that they are entitled to place a boat upon the waterway and to pass to and fro along that waterway and to remain in one place on that waterway for as long as they wish except where to do so would amount to an obstruction or a danger to other waterway traffic. It is maintained, after resorting to the shorter Oxford Dictionary for the definition of "use" that such use necessarily includes (as a natural adjunct of navigation on the waterways) the right to moor. Nowhere in the conditions of the pleasure boat licence is it stated that a boatowner must also obtain a mooring permit in order to place and keep his craft on the waterway. The judge comments "As matters of necessary implication and/or as clauses set out in the pleasure boat licence, those conclusions may be correct". We will come back to this point later.
5. The infamous s43(3) of the Transport Act 1962 states that BW has the power to demand, take and recover (or waive) such charges for their services and facilities, and to make use of those services and facilities subject to such terms and conditions as they see fit. But it is also a principle of contract law that there must be a benefit (consideration) for both parties in a contract.

So, if BW want to charge a licence holder an additional amount of money, it must be for additional services or facilities. In the context of moorings, the judge believes the Board to be providing the facility of the canal waterspace on which a boat can float. But this cannot be an additional facility, since the licenced boatowner is already entitled to float his boat there - as the judge seems to agree with in the above paragraph 4.

6. All would seem to be well, except The Board dug out a set of licence conditions dated 1977 relating to the use of pleasure boats and houseboats which stated "Before arranging to moor to property not owned by the Board, the Board's consent will be required if the boat is in the Board's water although attached to privately owned land and an appropriate fee will be charged by the Board." The defendants were not aware of the existence of this obscure document and even the judge says "The 1977 conditions (and application form) do not appear to have been enforced by the Board straightaway"!!. Can any of our members remember them ever being enforced? And even if they were, they are not the conditions which exist today, and are surely totally irrelevant. It must be the opinion of a reasonable person that current licensing conditions cannot include all the conditions that have ever been published in the past which the current licensee cannot be aware of.

7. The judge however believes this is concrete evidence in favour of the Board.

8. The judge, simply ignoring the points he apparently agreed with in paragraph 4 above, stated that mooring permit holders would "now be getting a permit to moor their craft in a particular place for a particular period to the exclusion of all other canal users". But this was precisely what the defence was arguing, which the judge appeared to agree with and then totally ignored in judgment, ie that licensees already have a right to use their boats in particular places for particular periods to the exclusion of all other canal users, while their boats are there and in that place. When a moorer leaves his mooring to go for a cruise, there is nothing to prevent another vessel navigating over the place he habitually moores in. Surely there is no additional facility provided by the Board. The judge does not agree.

9. The wise judge still has a corker under his wig, the ingenuity of which demands a certain amount of respect.

10. The judgment says that BW are perfectly justified in charging mooring fees since moorers will be receiving consideration (ie benefit) for their mooring fees because they will be "the direct beneficiaries of the incidental common benefit which will accrue" from the funds generated by charging the mooring fee!

In other words BW can charge us for anything they please, (and the more they charge the better), since the greater the common benefit will be that we will be sharing in! If ever the law is an ass this is a marvellous example of it.

It is understood that the Defendants are not going to appeal because of the cost.

New moorings policy already on the cards

So BW have won this important case and immediately issued a press release stating that it had "now cleared the way for consultation on a wide ranging moorings policy". BW also announced a conference on moorings for national user groups in October. There will be at least one NABO representative at the conference and the results will be reported in the next issue of the Boater.

It is the present policy of BW to encourage marinas. The high capital cost of marinas require high charges. For marinas to succeed linear mooring prices also need to be kept high. But up till now BW have not been able to control all linear mooring prices. They now can. We await their proposals with interest. We can assure you that whatever they are, we will fight for the best deal for the boater.

SATURDAY 3rd OCTOBER is PROTEST DAY for THE RIDGACRE.

You heard it first in the Boater and now in the Newsletter. The Ridgacre Branch will cease for navigation if BCDC get their way. You are invited to participate in the DAY of ACTION to keep this canal open. Join those who care enough at 1.00pm at the end of the Ridgacre. BY BOAT, CAR or any other suitable method of transport.

NATIONAL ASSOCIATION OF BOAT OWNERS

NOMINATION FOR ELECTION TO COMMITTEE

Person Nominated:

Name

Address

.....

Telephone.....

Proposer:

Name

Address

Secunder:

Name

Address

Statement by person proposed:

If elected, I am prepared to serve on the Management Committee of the National Association of Boat Owners.

Signed Date.....

Notes: Many members may not know you. It would be helpful therefore if you would provide a resume (Not exceeding 300 words) of your boating interests and of matters which you will seek to promote if elected. If you would like to be nominated for membership of the committee but do not have a Proposer and/or Secunder, return the form anyway and committee members will be asked if they are prepared to propose or second you. The person nominated, the Proposer and the Secunder must all be paid up NABO members.

If you are currently or have been within the last 12 months prior to appointment to the committee, a member of any management committee, or board of Directors or have held any position of influence which represents any user group connected with the Inland waterways, or any organisation which obtains income from the Inland Waterways or from activities connected with the inland waterways shall declare that interest at the time of being nominated for the committee..

Nominations must be returned to Jane Green, Secretary,

to arrive no later than 17th October 1992.