

STATES OF JERSEY
SCRUTINY COMMITTEE
BLAMPIED ROOM, STATES BUILDING

TRUST PORT REVIEW

Present: **Deputy Gerard Baudains (Acting Chairman)**
 Senator Jean Le Maistre
 Deputy Phil Rondel
 Deputy Rob Duhamel
 Deputy Bob Hill

EVIDENCE FROM:

MR PIERRE HORSFALL
(Waterfront Enterprise Board)

on

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DEPUTY BAUDAINS: At the start of the proceedings, I need to read you this information. It is
 important that you fully understand the conditions under which you are appearing at this

hearing. You will find a printed copy of the statement I am about to read on the table in front of you.

Shadow Scrutiny Panels have been established by the States to create opportunities for training States Members and officers in developing new skills in advance of the proposed changes of government. During the shadow period, the Panel has no statutory powers and the proceedings at public hearings are not covered by Parliamentary privilege. This means that anyone participating, whether a Panel Member or a person giving evidence, is not protected from being sued or prosecuted for anything said during hearings. The Panel would like you to bear this in mind when answering questions and to ensure that you understand that you are fully responsible for any comments you make. Obviously, as we are shadow and not fully operational that has to apply.

MR HORSFALL: Yes, I understand.

DEPUTY BAUDAINS: I would like to start by looking at the relationship between Harbours and WEB, so one of my first questions is what communications have there been between Harbours and WEB? I am thinking basically about the possibility of overlapping of properties, administration and this sort of thing. What clarity is there on boundaries? This is something which has come up as a result of hearing previous witnesses.

MR HORSFALL: Yes. Well, I can only answer the question in relation to what has happened since I became Chairman of WEB, just to make that absolutely clear. The relationship between us and the Harbour Authority is now outstandingly good. We have a very close working relationship with the acting Chief Executive, who, as it happens, happens to be the Harbour Master. The Chief Executive of WEB, David Margason, and the Harbour Master meet regularly. There is a proposal that we should investigate possible land developments to increase the value of the land around the harbour and, as far as we are concerned, we are more of a development agency than the Harbour Authority and there is very close understanding between us and they seek advice from us from time to time. From some of the proposals coming forward, it is possible in the future that we may actually deliver what it is they want on their behalf. So, in summary, the working relationship is extremely good. There are clear lines of demarcation as to which land comes under whose authority and also with a view to making the best use of that land

jointly in the future to the benefit of the public of Jersey. I am very happy with our relationship, with the working relationship and I think it is a great credit to the Harbour Master and to Mr Margason.

DEPUTY BAUDAINS: Right, thank you. One of the problems that we foresee (and I hope you may be able to allay our fears in this area) is that if the Harbours goes to a trust port or incorporation -- it is open yet -- but probably more so if it went to a trust port, do you foresee any problems in the overlap of land, because obviously it would be more convenient if Harbours owned all the land around the area, which they don't, because you own some, Harbours owns some and I believe Property Services are taking over control of some? Do you foresee a problem?

MR HORSFALL: I don't because of the good working relationship. If they were to become a trust port, I don't see that there would be any need to change the relationship that currently exists. I am not aware of Property Services taking over some of the land, if there is any that they have control over there. I am not aware of any changes in that direction. But, in terms of working with the Harbour Authority, whether it becomes a trust port or stays as it is, I really don't see any problems because there is an enormous amount of goodwill between the two parties and a clear understanding as to who is responsible for what and a clear understanding that the ultimate objective is to get the best benefit out of that land for the public of the Island of Jersey.

DEPUTY BAUDAINS: I was thinking along the lines, especially if it was a trust, that you would be looking to maximise the value of the assets that they have and if they are leasing from you or vice versa or there is land there which they think they can develop that you own, I am not quite sure how the two bodies would work together.

MR HORSFALL: Well, I think the land that comes under our administrative control is clearly demarked and the boundary between us and them is actually pretty much defined now.

DEPUTY BAUDAINS: Right.

MR HORSFALL: So it doesn't come up. It doesn't really come up again. Essentially you have got a line which runs from, I suppose, the Elizabeth Castle side across. They have got

warehousing already built and there's the trailer park ----

DEPUTY BAUDAINS: I was going to mention that.

MR HORSFALL: ---- which adjoins our land. Now, development on our land has been approved by the Planning Committee. The adjacent development is currently being built, so that is firm and, on the trailer side, there is the possibility of some development in that area, but the proximity of what is happening outside has been taken into account in preparing the plans for that. So I don't see that boundary changing -- I don't see how it could change -- and it is pretty clearly demarked at the moment and both sides' interests have been taken into account.

DEPUTY BAUDAINS: So the trailer park is under WEB, is it not?

MR HORSFALL: No. The trailer park is under the Harbour Authority. They are wanting to do some further development in the trailer park and I understand, although I am not privy to them, that plans are being prepared in relation to a commercial port in the trailer park, but I also understand that any interference with what is happening on our side is always taken fully into account.

DEPUTY BAUDAINS: Well, that clears one problem that I had. Do you have anything?

DEPUTY RONDEL: On the land itself -- you don't mind if I call you Pierre, do you?

MR HORSFALL: Of course not.

DEPUTY RONDEL: The car park, multi-storey car park, there have been some concerns obviously within the marine industry as to the way WEB and Harbours actually administer the car park. Can you give us details on where the demarcation actually comes?

MR HORSFALL: Well, the car park was developed by WEB with funds provided by the States given to WEB. So the car park is WEB's car park. The agreement was that a certain number (and I don't recall the precise number) of parking spaces would be made available for marina users. There was a problem at about the time I came into the picture -- in fact it was just before I came in but it overlapped the time I entered the picture -- where Harbours had agreed to give some of the spaces back to WEB that they had allocated to them and that there would be 50 spaces left for marina users during the week. Harbours had agreed that and one of the reasons ... I think there were two reasons that drove it that way. One was that they weren't being fully

utilised. They weren't being fully utilised and there were several interlocking things. Another relevant factor was that Harbours were not paying for the use of these spaces even though they were to WEB's account. I think what actually rang bells was that Harbours have a lot of other parking spaces around the harbour, around that zone, and they were happily selling their parking spaces to banking enterprises and people who used them as commuters. So there was a bit of a sort out and they agreed that we should take some of those parking spaces back.

Now, marina users did object to that at the time -- and I can understand them objecting -- and there were further discussions between David Margason and the Harbour Master. I understand that it is now pretty much resolved, in that other spaces have been made available for people who went away for weekends and it has quietened down, but that has been done at executive level. I don't know the detail of how it was finally resolved, but it is now quite literally ... I suppose it is the west, so it is all quiet on the western front.

DEPUTY RONDEL: Over and above that, the new marina facilities which are in the process of being put in place, are WEB building those on behalf of the Harbour Authorities, or was that a separate contract between Harbours and somebody else?

MR HORSFALL: It is a separate contract. The development you are talking about is Harbour Reach, which is a private development, but on the ground floor will be the marina facilities. The foundations are currently going in. My understanding is that that will be, though the people building the marina facilities would expect to be paid for the use of those marina facilities, I would expect that to be a direct agreement between the Harbour Authority and the private developer.

DEPUTY RONDEL: So WEB would not be involved in that particular project?

MR HORSFALL: I would not have expected us to be directly involved in the link between the Harbour Authority and the marina facilities, though I have to say I do not know if that has been finally decided.

DEPUTY RONDEL: The other thing that has come up and shown its ugly head in the last few weeks actually is the nuisance factor. It is of real concern to the professional people within the harbour complex area as to whether or not somebody might invoke the Nuisance Law from

within those new flats built on your sites, on the WEB operated sites, against the existing port users who operate obviously, whether it is Condor, Emeraude or any of the shipping companies who operate ships night and day, if somebody were to invoke the nuisance law. In the leasing of any of your properties or the sale of any of your properties or long term leases, is there a clause to hopefully prevent the Nuisance Law being invoked?

MR HORSFALL: I don't know the answer to that. I would have to enquire and see if there is anything in the clauses. The properties that are currently being built, which is, again, the Harbour Reach development, are, I believe, all being sold. Anybody buying such a property must surely be aware that they are next to a port. What I do know is that, in terms of seeking to reduce or to keep down any potential increase in noise of operation, there is to be on the trailer park side a warehouse constructed which I am not sure what it ultimately would be used for, but there is a lot of talk about the so-called fulfilment industry and the like and there is ... I understand that the warehouse is to be located in such a position that it will actually act as a noise reducer from the commercial activities in the trailer park site and will prevent trailers being worked right alongside the wall which is immediately under the flats. So people are paying great care to that particular problem that you put your finger on.

At the end of the day there may be specific clauses in the sale of those flats -- I don't know the answer to that -- but whoever buys a flat and knows it is being built with the great benefit of views over St Aubins Bay and Elizabeth Castle and an outstanding position, they also know that they are adjacent to a commercial port, and I would have thought they would find it very difficult to then argue that somehow they have been hoodwinked into buying a flat next to a noisy area, but I am not expert in that sort of thing.

DEPUTY BAUDAINS: Could I come in on that, because it was as a result of a previous interviewee -- I cannot remember which one it was now -- that, regarding some port in the United Kingdom where they have had horrendous problems because of nuisance and even though a port may have been operating for 100 years or longer, this did not prevent somebody invoking ... if there is noise and it is proven, then the statutory Nuisance Law can literally close things down. You will find you have got a road and you simply cannot use it any more. It has

been a considerable headache to some ports in the United Kingdom. What I am understanding is that the work that WEB is doing on that is in its infancy perhaps or have you discussed that with Harbours or taken legal advice on it, because we are concerned that a trust might, as I said earlier, wanting to make the most of its assets and create value from it, find that it is stymied in doing so.

MR HORSFALL: It has been discussed between WEB and Harbours and, as I say, measures are certainly in mind to reduce any potential noise nuisance. As to the particular question as to whether it would be possible for somebody to invoke the Public Nuisance Law, I would have to say to you that I will draw that to the attention of the Chief Executive and seek his reassurance that that has been thoroughly looked into. It may well be that it has. He has advised me that, following his discussions with the Harbour Authority, he doesn't foresee any problem, but I need to check that he has covered that particular point.

DEPUTY BAUDAINS: No, the point that was raised to us was be careful about it because of future development where you may be seeking to do something to create wealth and find that either you cannot or you go ahead with the development and then, worse case scenario, you can't make use of that development.

MR HORSFALL: I think that is very good advice. There is only one place where that is relevant, which is this particular boundary on the back of the trailer park.

DEPUTY BAUDAINS: Does anybody have any questions?

DEPUTY RONDEL: Yes, I have a couple. If we can go away from this particular area, if you don't mind, can I go back to 1994, if you can remember back? You do not have to answer this because you are no longer a States Member.

MR HORSFALL: If I remember, I will answer it.

DEPUTY RONDEL: Yes. Back in 1994, were you President of F&E or P&R?

MR HORSFALL: Both, because I think it changed in 1994. I think until December I was President of F&E and, after 10th December, I was P&R, so the answer is both.

DEPUTY RONDEL: Because at that time it was P&R and F&E who actually set the ball rolling, that is incorporatisation, which then became a trust port status or some other hybrid was

put in training and I know it is a long time ago -- it is about I joined the States myself -- so I just wondered what the rationale was because it was a trading company and they wanted, I believe, to get it into a similar frame to what they had done with Postal and Telecoms. Do you recall exactly how it came about and what the rationale on the ports was?

MR HORSFALL: I think I do. As you say, it is 10 years ago. We started ... certainly nine years ago we started a move to incorporate Postal and Telecoms. As it happens, the move to do that started through a paper that I wrote whilst on a CPA conference in Canada. So, for the benefit of my friend here on my right [referring to Senator Le Maistre] it shows I didn't waste my time in between meetings. That was Postal and Telecoms. That sort of gathered some momentum and I seem to remember that the Harbour people having seen this going on came to us and said "Look, we have seen examples of trust ports around" and they came to us and said "We think we could do better if we are a trust port", and we had no reason to disagree with them. They said they were going to investigate the possibilities. I think in the background you've got the same sort of thing that one had with Postal and Telecoms, to give the commercial freedom and so they could effectively borrow money from banks and all this sort of thing. I think the same sort of argument applied and essentially we said "Yes, fine. Go away and investigate it and come back and tell us how you get on and what you think." I believe that is the way it started and not us telling them to do it.

DEPUTY RONDEL: Ten years down the road, would you still be thinking the same way, that that is the right way for Jersey to be going in?

MR HORSFALL: I can't express an opinion as to whether being a trust port or being incorporated is better than the other, but I do think that to have a Harbour Authority that has a certain amount of independence with obviously still public accountability, but a certain amount of independence and commercial independence in particular, sitting as they do on some pretty valuable real estate which could be better utilised and its value could be significantly increased to the benefit of the Island of Jersey, I think there is more chance of that happening if they were either a trust port or incorporated than if they remain as they are now. So, therefore, my answer to the question is yes, I do. I think it would be better and I think the ultimate beneficiary would

be the Island of Jersey.

SENATOR LE MAISTRE: Can I just pick up on that because I think that argument, that side of the argument, I am sure it is quite easy to understand, but could I ask though whether you see a difference between Postal and Telecoms, where there is some potential for competition, clearly, whereas, as far as the port is concerned, there is actually no potential for competition unless one is going to develop the port elsewhere in the Island, which is unlikely.

MR HORSFALL: Yes. There is a difference. There is a difference and care has to be taken in establishing the framework and the regulator (or however this is regulated) care has to be taken that it can't be put in a situation where the Island is sort of held to ransom by this. So there has to be a strong regulatory background, but at the same time, of course, for quite a long time, even in the States one has been in the position where the harbour and the airport could be used as very potent weapons to pressurise the States, on the basis that there is only one harbour and only one airport.

So if you take the whole package, everything from the terms and conditions of the workforce -- for example, I understand that up at the airport there is now a no strike agreement on the firemen, or by the firemen -- so you really would have to look at the whole thing and you have got to take the workforce along with you as well. It has got to be structured in such a way that its position can't be abused, or certainly no worse than it currently is. Likewise with the workforce, it has to be such a workforce to be taken along with it. But if you get all that right, then I do think that you have the potential to unlock some very valuable and beneficial things down the port area for the Island generally -- boat owners and all sorts of other things -- which could be done that way rather more speedily and more easily than within the State system.

SENATOR LE MAISTRE: Could we look at that in relation to WEB and whether the trust port concept or the port being incorporated would make any difference to WEB as such in terms of the relationship? Can you see any potential differences? There may be pluses or disadvantages.

MR HORSFALL: I have to say I don't think so. I don't think so. Maybe that is based on the fact that the particular personalities we have got at the moment are such that literally I don't think it arises. In some ways -- in some ways -- on reflection, it could improve it, in that if we

decided to do things jointly the, call it, independence of the trust port -- let us assume it is a trust port -- could actually make that easier. In other words, if you have got two partners who can manage their own destiny, it might actually be easier to reach a working relationship with co-operation on projects than if you have got one partner that is independent and one partner that has the strictures of the States. I certainly don't see it as a negative.

SENATOR LE MAISTRE: No.

MR HORSFALL: I see it as a potential positive.

SENATOR LE MAISTRE: Right.

DEPUTY BAUDAINS: Looking at the realisation of assets, you were speaking a moment ago about Harbours, if they were in a different format, then they would have the ability to maximise the value of the land, the asset that they are sitting on, the real estate you might call it. I am not for one moment suggesting that WEB are not efficient or anything, but you spoke earlier also of the clear demarcation that exists between the properties administered by WEB and by Harbours, which I am glad to hear. I wasn't aware that it was that precise. Do you think there would be any ... I mean, what I am now seeing is the fact that the trust port or incorporated company or whatever it is will be administering certain areas of land. Would there not be an advantage in one body having the whole lot as opposed to a demarcation between WEB and this new entity of whatever it is?

MR HORSFALL: I don't think so. I don't think so essentially because the ultimate objective of both parties is different. I suppose the ultimate objective of the Harbour Authority is to be an efficient way of getting people and goods in and out of the Island; whereas the ultimate objective of WEB, following instructions given to us by the States, is to develop and create something with no public money going in but private investment. I think the point is that the objective of the two parties is actually different. So I can't see that you would amalgamate the two.

DEPUTY BAUDAINS: The reason I broach that aspect is because we have heard from situations in the United Kingdom where really those ports which are trust ports or similar entities have a mixed portfolio because the port activities ... I think what you are suggesting is that really that Harbours should concentrate on port related activities and possibly WEB should concentrate on

the other areas, but the message has come across to us that a mixed portfolio is required in order to generate the necessary income that Harbours need to have development areas where they can let out housing or other activities in order to generate the income. The income from ports, from the operation of ships, is not usually, as I understand it, sufficient to sustain the organisation. As we are seeing in Jersey, there seems to be a steady decline in port operations generally in passenger travel and income from shipping, especially now that we don't have the heavy oil coming in and there is a use there for the JAC and things like that. I just wondered if you agreed that the Harbours should actually have a mixture of land, other land apart from that related directly to port activities.

MR HORSFALL: Well, I take your point and, of course, it is absolutely true. The way we are working with them at the moment is to seek to help them get benefit from the land they own in other ways, in areas where they don't have particular expertise. They might be extremely good at running the port and we happen to have somebody in WEB who is extremely good at thinking as to what to do with land. So we are trying to help them in exactly the way you say, to get benefits from other places.

For that to happen as efficiently, then the way the land would have to flow would be they would have to give up some of the land to come under the administration of WEB. (a) I don't think it is very likely that they would be very happy to do that, but (b) I think the net benefit, so long as we are working closely and as a team and we are giving them the right advice, the net benefit at the end of the day should be the same. The way it is working in good harmony with us helping them and advising them and, possibly, in due course, we may become their agents for certain developments, then it seems to me that it is a really good horse to ride because everybody is working so closely together with the same aims. But the point you make about them getting benefit out of the land is a very important one.

DEPUTY BAUDAINS: Of course.

MR HORSFALL: I think they will get it through the structure we have got.

DEPUTY BAUDAINS: It might be slightly, depending on which direction is taken, a trust port may bring up a slightly different scenario, in that all the benefits and profits are ploughed back

into the trust and the benefit would not be as it currently is, where any surplus is paid to the States of Jersey. As I understand it, a trust wouldn't even pay rates.

MR HORSFALL: Well, if the States agree that the status should become a trust port, if the trust port ... I have to emphasise that I am not particularly knowledgeable in the detail of what a trust port might or might not do, but if the states agreed to set up a trust port and the trust port is going to make a lot of money out of exploiting the land under its control, I would be astonished if there wasn't some provision that that benefit would not flow back to the Island and to the States. You can't just finish up with a trust getting richer and richer and richer and not knowing what to do with the money. There has to be a beneficiary, I would have thought, at the end of the day ----

DEPUTY BAUDAINS: As I understand it ----

MR HORSFALL: ---- and I would have thought that beneficiary would be the States.

DEPUTY BAUDAINS: ---- the benefit of a trust is that it all gets ploughed back in again, but, anyway, it depends how it is structured, as you say.

MR HORSFALL: I can understand it on the formation and on the development of it, but if the trust finishes up being a very profitable concern and increasing its wealth year by year, I don't think anybody would expect to see those funds completely locked up for ever. Nobody yet has.

DEPUTY BAUDAINS: Deputy Duhamel, do you have a question?

DEPUTY DUHAMEL: Yes. I was just going to ask, what is the present and what is the future interest of WEB in the administration of land at La Collette?

MR HORSFALL: I think the correct answer to that is very little. The States did approve ... I cannot tell you what form it was, but the States did approve the principle that WEB ultimately would be responsible for the waterfront and the line was drawn which included La Collette. The land west of Albert has been made over to WEB and WEB is clearly responsible for that. As yet, we have not been given administrative responsibility for land at La Collette. I happen to think that we should be given administrative responsibility for it. Somebody soon has got to decide what has got to go on it and how it can best be used. Now, you have got a body that could do that on the States' behalf, which is WEB, and the other thing that worries me about it is that in the meanwhile, without us having administrative responsibility, various people are making

various almost ad hoc decisions as to bits of it. I would very much hope that it doesn't compromise what eventually could be an enormous asset to the Island.

So the answer to the question is, as far as I am aware, no progress, though the matter has been raised quite recently as a question raised by the President of Planning and Public Services as a question, but, as far as I am aware, there is no progress on actually doing it. But things might be happening that I don't know about and so on within the States' domain. But I do think it is an important question and it worries me slightly -- well, it worries me more than slightly -- that, as I said before, ad hoc decisions are being made about bits of it and I think it is in everybody's interest that there should be a thorough look at how to best use it because it is a very big piece of land in a very prime position.

DEPUTY BAUDAINS: Deputy Rondel?

DEPUTY RONDEL: Yes, going on from that, you may or may not be aware that Harbour & Airports are in fact starting to look away from a trust port status --hence we have got this review -- and looking at becoming a limited liability company, which is the third ----

MR HORSFALL: I had heard that.

DEPUTY RONDEL: That being the case, and it may not have been floated anywhere, but that being the case and given your comments made on La Collette, would there be any merits in WEB and Harbours & Airports becoming one -- sorry Harbours, not Harbours & Airports, but Harbours becoming one -- given that one could support t'other?

MR HORSFALL: As far as La Collette is concerned, I can see why you think that might be a possibility. Whether it would be an advantage of or not, I find that quite difficult to answer just off the top of my head, except to go back to what I said before, that the Harbour Authority has a lot of expertise in running a harbour and either within WEB or at WEB's disposal is a lot of expertise as to how to develop land in the best interests of the community. I could see that for La Collette as being a question that perhaps should be asked and I don't know the answer to it, but I can understand you asking the question. My gut instinct is that it is probably better, so long as they are working together, to actually have the two sets of expertise slightly different because you have then got the independence to stand up to the other party if you think they are wrong.

DEPUTY RONDEL: Well, the purpose of putting the question was because one of our earlier interviewees in fact -- I think the Chairman mentioned it earlier -- that one of our people who came from the UK said that the trust actually needed shops, it needed the flats and so forth to actually bring income to actually make it all viable.

MR HORSFALL: Hmm hmm.

DEPUTY RONDEL: So all under one roof, i.e., whether it was WEB or WEB Limited or 2005 Limited or whatever, that was the purpose of putting the question, so that you have the income from your flats, which also helps the ports and it works in a much bigger framework.

MR HORSFALL: Yes, I understand. I understand what you are saying. I think to put all of that under one roof, you would lose ... it is almost thinking about the question ... it is not a question which it has arisen before. You would lose the independence of one party standing up to the other and saying "No, I don't think you are right and we should do this." So I don't really know the answer to that regarding La Collette other than to say, as I have already said, that it is a question that needs thinking about, though my gut instinct is that the current arrangement is working well and I would be loathe to disturb it.

As far as if you looked at west of the Albert is concerned, with the contacts that we have currently got and the private investors currently lined up eager to do investments, to carry out some very high quality -- when I say "*very high quality*", I mean super high quality -- projects west of the Albert, I think that to change that situation would actually be asking for significant problems. I think they know who they are dealing with and they have made certain decisions to deal with the body as it currently stands. If that body was to suddenly change as to being a mixture of Harbours and us, I think there is a very strong chance that they would back away because they wouldn't ... you know, they would have their confidence shaken a bit.

DEPUTY BAUDAINS: Hmm.

MR HORSFALL: I would not disturb the relationship under any circumstances west of the Albert. It is too far advanced for the people we are dealing with.

DEPUTY BAUDAINS: Any other Members? Senator Le Maistre?

SENATOR LE MAISTRE: Yes. Just to pick up on that, I think the point that was put to us which

clearly appeared to have some merit -- and this was to do with the development of ports in the north of England, where the land immediately around the port, some of it, needs to be protected for port use and other land could be developed for commercial gain -- is because the port and WEB are essentially States owned, you end up with three agencies now: the States' overall ownership, the port as a separate body and WEB as another body, accepted with each of its own parameters for action. The view that was put, and I think is worth exploring, was that in a situation such as we have now, they saw potential benefits if you looked at the UK model, where it had worked and where one organisation had actually been able to cut through quite a lot of the potential conflicts that can occur when you have got two bodies.

Bear in mind, on top of this you have got planning to overcome as well. I mean, I am not suggesting -- I do not think anybody is suggesting -- that this is likely to occur in the next six months or whatever, but I think what was being suggested was really opening our minds to the fact that there were examples of where this had worked to the benefit of the community which that port and the area surrounding it had served. I don't think it was put across as a threat to anybody; it was actually put across as a very workable possibility.

MR HORSFALL: As I said, I wouldn't descry it and would say that it is worth looking at. What I have said is that, in relation to west of the Albert, of course, I think that is too far down the line to swap that. In terms of the working relationship we have with the harbour at the moment, there is a demarcation line which is port land, and within that port land is obviously an area which has to be reserved for port activity and there is also an area which has potential for future development to the benefit of maybe the Harbour Authority but the public generally as well. That is what we are helping them and advising them on, which is a huge step forward from where we were before. When you get to ... if you say put the two bodies together, I assume one would be thinking that the prime purpose of the land that we are talking about is the port and you would then say "Well, WEB should come under the Harbour Authority."

DEPUTY HILL: No, I would say the other way round. It could be the other way round. It is an alternative. It is something to think about.

SENATOR LE MAISTRE: I think you get a merger rather than one taking over the other. You

actually get a merger of skills and responsibilities.

MR HORSFALL: Yes. Well, you certainly ----

SENATOR LE MAISTRE: To the benefit of the public is really what the end game is.

MR HORSFALL: Yes. Certainly, in terms of expertise to run the port, WEB would not be ideal. Put them in charge and, I have to say, possibly ----

DEPUTY BAUDAINS: So you don't fancy being the new Harbour Master?

MR HORSFALL: No, no, no.

SENATOR LE MAISTRE: Maybe you have to declare an interest, do you?

MR HORSFALL: Yes.

SENATOR LE MAISTRE: You would no longer be Chairman of WEB.

MR HORSFALL: Yes. My answers are not influenced in any way about the possibility of not being Chairman of WEB. One thing I think you would have to bear in mind in exploring that scenario, which, as I said, is a scenario that I couldn't say to you is not worth exploring, is that the instruction has been given that no public money is forthcoming for any of this development. It has got to stand on its own feet and pay and the increased value of the land effectively is what pays for it. That is working well at the moment.

Whatever structure you set up, it is absolutely imperative -- and I didn't realise this as much as I do now -- it is absolutely imperative that what you set up is totally credible and gives confidence to the people who are going to dig their hands into their pockets and produce the money to do the developments. What I am absolutely certain of -- I have seen this first hand now -- is that we have got developers who are willing to put forward first class projects, involving large sums of money, essentially because they have for themselves established and they have taken care to establish that they have confidence in WEB. I have to say, because I wouldn't want it to be any different in this, that a large measure of the fact that they have confidence in WEB is down to our new Managing Director. But there is no question that if they haven't got confidence in the body they are dealing with, then these guys will not stick their hands in their pockets and produce tens of millions

DEPUTY BAUDAINS: I think one can appreciate that the people you are referring to and which

WEB is dealing with would obviously not want to change horses in mid course, so one understands that. Could I just go back slightly from what you were saying there? When we were sort of playing with the idea that perhaps WEB and Harbours should be amalgamated in some way to create perhaps the greater mixed portfolio that I was referring to earlier or for other reasons, I think what I want to understand is precisely what you are trying to portray. Tell me if I have got it wrong. What you are really saying is that the objectives of WEB and Harbours, or the new body, are sufficiently diverse to suggest that amalgamation is not really appropriate? Have I understood that correctly?

MR HORSFALL: I think you have gone further than I went. I said that the objectives of the two bodies are diverse and my instincts are that it is difficult to merge those. I have also said don't create a body that private investors might look askance at if there is too much involvement from the other side, but I did also say that I can see why you are suggesting it and it is worth looking at.

DEPUTY BAUDAINS: Thank you. Any other Members have a question?

DEPUTY RONDEL: Yes, if I can come back in on that, if I may? As you are aware, from the Port Master's Plan 2002, there is supposed to be an aggregate port some time in the future on La Collette. I can understand why WEB would actually want to make sure that the parameters are all in place and get somebody to administer that before long. Are you also aware that a feasibility study is being done at the moment on the north coast at Ronez for a deep water port? Thereby an aggregate port could in fact be on the north coast and not in the town?

DEPUTY BAUDAINS: I wonder if statutory nuisance might have a bearing on the aggregate port in St Helier.

MR HORSFALL: Yes, I agree. I didn't know that a further study was taking place, but I can tell you from a purely personal point of view what might view of the aggregate port on St Helier has always been from the day it was first mentioned, and I won't use strong language. I have not thought it to be a good idea. The vision of the numbers of wagons that would need to go down empty to collect and take it away and possibly go down with stuff to be recycled and all sorts of things down there I have always thought to be really pie in the sky, and I have also always

thought that the obvious place to do it is at Ronez, but that is a personal point of view that I have held ever since it was first mentioned. It goes back to the Environmental Sustainability Study.

DEPUTY RONDEL: That is correct.

DEPUTY BAUDAINS: I would hope that, whoever was investigating that, would consider obviously, in the light of the Statutory Nuisance Law, things such as dust, which I know can be watered, but you can't water everything, and also the noise of the handling.

MR HORSFALL: And such a valuable site. You know, I always thought it was crackpot -- sorry, I said I wouldn't use strong language.

DEPUTY RONDEL: But, anyway, going back to what I suggested earlier, that WEB and possibly Harbours may wanting to look in the future at becoming one instead of being a trust port or being part of a trust port is possibly not as far fetched as probably when I first mooted it ten minutes ago.

MR HORSFALL: No. I'm not suggesting it's far fetched. To that take that example, I don't know whether that original idea of doing the aggregate down there came from Harbours or not. I imagine, strictly from a Harbour point of view, you know, here is a great dollop of income. The picture is much broader than that. The picture is the location, to and from, other potential developments and all sorts.

DEPUTY BAUDAINS: And the ability of the roads, the infrastructure, to take them.

MR HORSFALL: I agree. I agree with you.

DEPUTY RONDEL: My final question, through the Chair, if I may. You are probably aware that the Harbours' trust port or whatever may be put in the future carries an awful lot of baggage and, by "*baggage*", I am referring to all the ports around the Island which have to be looked after by Harbours. Some of these would obviously come under SSIs, but we have also got the separate open port in Jersey, which is Gorey, which actually comes under Harbours. What would your personal view -- because this is the only view you can give -- be if a trust port/WEB were to be created and the baggage that comes with it (and also there are obviously things like the public house which sits on the fording etc) were put all into the one equation?

MR HORSFALL: I think that it is actually quite a complex question. My instincts tell me that

if you are going to ... with WEB having been told “No more public money, you have got to pay your own way” and the trust port presumably having been told the same, if you are going to stick the two together and then stick the baggage in, strictly from a WEB point of view, if the baggage, as you call it, pays for itself, no problem. But if the baggage requires significant cross-subsidy from other developments, then I think that the States ought to decide that they would support that cross-subsidy. When I say “*support that cross- subsidy*”, I think there is a case for saying if the States want these things to be done which actually lose money, then there ought to be funds coming to it or some accounting process is established where they are not seen as a drain on the commercial operation and due account is taken of it. In other words, I don’t think it would simply become a burden. It shouldn’t simply become a burden on WEB. I think that would be most unsatisfactory.

DEPUTY BAUDAINS: But surely it is a case that some parts ... I mean, you were talking about the portfolio earlier and the valuable real estate, but it depends how the accounting is done. I have mentioned this to other interviewees, that, I mean, one could look, for argument’s sake, at St Katherine’s breakwaters as an enormous asset. I mean, how much would it cost to build it, but, on the other hand, it is an enormous liability because it is falling apart at the end. So the amount of moorings which bring in revenue from that area are undoubtedly going to pay for the maintenance of that breakwater, rather like Guernsey has a problem with the Alderney breakwaters. So there will always be a degree of cross-subsidisation somewhere along the line.

MR HORSFALL: That is a good example. I think it would be most unsatisfactory if, in doing some sort of merger down here, WEB found itself suddenly having to pay to maintain St Katherine’s breakwater. You would have to separate them out somehow. Obviously the money would have to come from somewhere and ultimately the States could allocate it out of what WEB eventually pays across to the States or something, but it would not be acceptable that these things around the Island which cost money should simply become a burden on WEB. I think there would be a lot of resistance to that.

DEPUTY BAUDAINS: Senator Le Maistre.

SENATOR LE MAISTRE: Just one question that we have sort of searched around for the last ten

years and I just wonder if you have any comment because obviously this issue has been bubbling around for quite a long time, whether you recall any particular comments being made as far as the movement to either a trust port or being incorporated, whether there were any views at the time that you might have been involved favouring one form of change compared to the other? That seems to have been bounced around quite a lot.

MR HORSFALL: Yes. I think the answer to that is no. As I explained before, I think the trust port, I think the trust port thing sort of arose and they came up and said "Look, this is a possibility". During all the time that ... when I say "involved", from time to time Harbours would come and report to us how they were getting on and I do not recall it ever having moved away from the fact that they were investigating the trust port.

SENATOR LE MAISTRE: Right.

MR HORSFALL: I do not recall them every coming to us and saying "Look, we think we have found something better."

SENATOR LE MAISTRE: Hmm hmm.

MR HORSFALL: If my memory serves me right, that never happened. Certainly, if it has, I have totally forgotten about it.

DEPUTY BAUDAINS: It did occur to me, whilst listening to the evidence on previous hearings, that, as I said earlier on this afternoon, it really depends how it is drawn up, because you could draw up a trust port so that it is extremely similar to a limited liability company. In fact, one example was given to us of a situation similar to that in the United Kingdom. You could construct one to be very much like the other. It depends how you draw up.

MR HORSFALL: And, of course, with the experience now in terms of the corporate structure having gone through the Telecoms thing, I suppose there could be an argument -- I am almost thinking as a States Member now -- there could be an argument to say that we have got experience of this and we know how it works and let us build on that experience rather than going for something new. I am not suggesting that as a ----

DEPUTY BAUDAINS: But it did strike me as curious actually that we discovered that, as you say, you mentioned Telecoms -- and, together with two other Members, I was on the Telecoms

Board for a while -- that so much work was done creating the format to move that into a company, and lately we have had postal, so it seems to me that once the States had found a mechanism to create that, I am surprised that it does not appear anyway that that expertise was not drawn on in the case of Harbours. I believe they have just recently called on the services of Richard Syvret to have perhaps help them, but I am surprised that that didn't happen earlier. It seems that each individual committee is inventing its own wheel.

MR HORSFALL: Well, as I say, I can only go back to two and a bit years and say that, at the time, they said to us they thought the best solution was a trust port, and I don't think we had any reason to question that or any knowledge from which to question that. We said "Okay, you are investigating it, keep us posted", which they did.

DEPUTY RONDEL: On the back of that, Pierre, on Postal and on Telecoms there seemed to be drivers who were pushing, pushing, pushing, whether it was Frank Walker on Postal or whoever, to make sure these things happened. The drivers for a trust port or incorporatisation (call it what you will), the hybrid that was going to be at the docks, who did you see actually driving it?

MR HORSFALL: Now?

DEPUTY RONDEL: No, at the time when you were ... you know, in the mid-nineties.

DEPUTY BAUDAINS: In the period up till now really.

MR HORSFALL: I would say, if you are wanting me to name somebody, I would say that I saw as the driver Derek Maltwood, who at the time, I think, was President of Harbours & Airport. When I say that, I am not singling him out -- Derek Maltwood and his Committee.

DEPUTY BAUDAINS: If I can jump in there, I think the reason why Phil asks that question is because we have really found it difficult to find the focal point because at one moment it seems like Policy & Resources are instructing Harbours and then it seems like Harbours are doing the work and then Finance & Economics are not happy with it, so more reviews are called for and it seems that everybody ... there are too many cooks in the kitchen at any one time.

MR HORSFALL: You are talking in recent years?

DEPUTY BAUDAINS: Yes.

MR HORSFALL: I cannot comment on that. I really don't know.

DEPUTY BAUDAINS: I was just saying ----

MR HORSFALL: But certainly going back in time ----

DEPUTY BAUDAINS: ---- this goes back to the fact that it is almost difficult to see a focal point, somebody championing this along the line.

MR HORSFALL: Yes. Up to the time where they would report to us from time to time their progress, I might get this wrong, but certainly Derek Maltwood was obviously the lead delegate that would come to see us, but he was a Member of the Committee as well, a Member of my Committee as well, and, as I recall, I think Len Norman used to come.

SENATOR LE MAISTRE: Yes, he would have been Vice-President.

MR HORSFALL: I think he was Vice-President.

SENATOR LE MAISTRE: Yes.

MR HORSFALL: They would report to us. What has happened since then I just have no knowledge of.

DEPUTY RONDEL: Because I am trying to go back that far, you know, eight or ten years because, as the Chairman has actually said, it is the driver. I am trying to find out who was driving the train to get to where we wanted to go and we have had ... well, there was Tony Cheng, there was Jimmy Johns and then Len and Derek and so on. All these ----

MR HORSFALL: John le Fondre.

DEPUTY RONDEL: John le Fondre and of course there was illness and everything else, but I just wondered if there was a civil servant possibly along the way or somebody like Richard Syvret who was driving Postal, having been a Member or being a Member of Postal, to make things happen. Having been myself on Harbour & Airports, I was trying to find out where the driver was actually coming from.

MR HORSFALL: Well, the only people I think I ever dealt with were Derek and Len jointly and the previous Chief Executive.

DEPUTY RONDEL: Mr Mills?

MR HORSFALL: No, the previous Chief Executive of Harbours.

DEPUTY RONDEL: Sorry, yes, yes.

MR HORSFALL: Yes. I don't think John Mills was involved at all.

DEPUTY RONDEL: I know. Obviously it goes back before Brian as well. It goes back to Roy Bullen. I was just trying to find out if they had somebody along the way that could have been driving it.

MR HORSFALL: I can't put my finger on it any more than I have.

DEPUTY BAUDAINS: Deputy Hill?

DEPUTY HILL: Can I come in on this one and ask would there not have been a bit more push maybe from P&R trying to get it to happen rather than it happening from within the Committee itself, because it could be said that with P&R having an overview of the various committees there might be a bit more push. Indeed, if there is a need for push now, that push may need to come from P&R.

MR HORSFALL: Yes, it may do. It may do. At the time that I am talking about, it was effectively a kind of investigatory stage. The people with the expertise and knowledge and able to carry out the investigations were Harbours & Airport. I take your point entirely. We at that time were content to let them carry out their research and report to us how they were getting on. If we had decided to do it ourselves, I think almost certainly we would have had to go to consultants, outside consultants, because we had no ... it was literally three blokes and a few secretaries was what we had and it seemed at the time sensible to let them proceed with the investigation as to what was best and, if proper proposals had come forward, then we would have got much more involved. The alternative almost certainly would have been to hire a firm, perhaps Coup & Partners or somebody, but probably not. Perhaps I should not have said that here. They were consultants used widely in the past and it never got to that stage.

DEPUTY BAUDAINS: Right, I am mindful of the time. Does any Panel Member have another question?

DEPUTY RONDEL: If I could just put one question. I said the last before, but in our Standing Orders this week, Pierre, there is a note "*As recommended by the Environment & Public Services Committee, the sale by the Waterfront Enterprise Board*" -- and this is getting away from the trust as such -- "*an area of land near the waterfront outlined in Drawing No.*" di dah di dah dah,

“previously referred to as the Parish Road.” Could you explain what they refer to as *“the Parish Road”* that is going through the States at £10 this week?

MR HORSFALL: Does it say where it is?

DEPUTY RONDEL: It is on the waterfront at least.

MR HORSFALL: It cannot be the Parish Road if it was on the new bit, can it?

SENATOR LE MAISTRE: It is referred to as *“a Parish Road”*.

DEPUTY RONDEL: It is referred to as *“a Parish Road”*.

MR HORSFALL: It cannot be a Parish Road if it is on the new bit.

DEPUTY RONDEL: Can I pass you that? You might well want to look at it.

MR HORSFALL: Sorry, I can't.

SENATOR LE MAISTRE: It's nice to spring one on you. The chief question asker ---

DEPUTY BAUDAINS: Unfortunately, we do not have the appropriate drawing with us.

DEPUTY HILL: He hasn't got the answer, so you can't ask the question yet.

DEPUTY RONDEL: Well, I'm asking the question.

DEPUTY BAUDAINS: In some ways, the query that I had about that particular item has been clarified by what you have said earlier this afternoon. I was wondering about overlap of administration and ownership between Harbours and WEB and this sort of thing, but you have advised us that there are clear lines of demarcation, so hopefully that is not a problem.

MR HORSFALL: The only thing I wonder is whether it could be the bit of road at the end of the island site, the bit that's not used.

DEPUTY RONDEL: The bit with the lump of concrete in it?

SENATOR LE MAISTRE: Yes. It won't be very big for £10, that's for sure.

MR HORSFALL: It is obviously a notional payment. That is the only thing I can think of.

DEPUTY RONDEL: It wasn't done to embarrass anybody. I just saw it there and thought *“Well, possibly he could explain where it was.”*

MR HORSFALL: It may be that bit of road.

DEPUTY BAUDAINS: Any closing comments you would like to make?

MR HORSFALL: Well, actually, yes, I would, but it is not on the subject that you asked me

around. Needless to say, it is the first time I have sat before a Scrutiny Panel and the Scrutiny Panel arises ----

DEPUTY BAUDAINS: I hope it has not been too unpleasant.

MR HORSFALL: ---- because there has been a lot of debating that was done in the States that I was very heavily involved in and I have to say that I think it demonstrates the potential, and I always argued at the time, when people talked about accountability, that Scrutiny Panels were going to be a wake up call to a lot of people who currently were thought to be not too accountable and that there would be a great democratic gain by doing it. My first impression is that what was said then is absolutely right.

DEPUTY BAUDAINS: Thank you very much.

MR HORSFALL: Sorry, that is meant to be a compliment.

DEPUTY BAUDAINS: Thank you.
