

(Any comments on these Minutes should be directed to the Secretary, whose contact details are provided on the inside cover of The Darjeeling Mail.)

DARJEELING HIMALAYAN RAILWAY SOCIETY

Minutes of the Twelfth Annual General Meeting held at 12 noon at the Kidderminster Railway Museum, Station Road, Comberton Hill, Kidderminster, DY10 1QX, on Saturday 19 June 2010.

Present:

Committee: David Barrie, Chairman
Paul Whittle, Vice-Chairman and Public Relations Officer
Eddie Lang, Secretary
Michael Melbourne, Treasurer and Web Master
David Charlesworth, Editor
Peter Jordan, Tours Liaison
David Mead, Correspondence Secretary, DRCS Liaison and Engineering Advisor
Peter Barnes, Exhibitions and Sales.

In addition to the 8 Members serving on the Committee (as above), 54 other Members were present, bringing the total to 62. Of these 62 Members, 7 were Family Members, leaving 55 Members entitled to vote. 9 guests were also present, bringing the total attendance to 71. (A full list of Members attending is held by the Secretary and filed with the Minutes.)

Terry Martin

The Chairman, David Barrie, said that, before proceeding with the business of the meeting, he wished to say a few words about Terry Martin.

“You may have met Terry, in which case you will recall his memorable personality and his enthusiasm for the DHR. Or you will have read his obituary published in the May issue of The Darjeeling Mail. Since that publication, I’ve received around a dozen ‘phone calls from Members expressing their heartfelt feelings about Terry.

“Terry was tenacious. He was exactly the right man to ferret out facts when it came to writing about the DHR. His was a pivotal role. As Terry was fond of reminding me, according to Dr Robert Lee, the man who was so instrumental in the DHR obtaining World Heritage status, it was extremely important that the railway should be documented. With the completion of Iron Sherpa 2, Terry has ensured this. His contribution to the continuing story of the DHR will always be remembered. All of those who knew him will remember Terry with great affection.”

1. Welcome and Apologies

The Chairman, David Barrie, welcomed those present to the Twelfth Annual General Meeting of the Society. He called the meeting to order and advised that due notice to Members had been given by the Notices of Meeting published in the February and May 2010 issues of The Darjeeling Mail.

The Secretary, Eddie Lang, reported that apologies had been received from 57 Members. (A full list of these Members is held by the Secretary and filed with the Minutes.)

The Secretary also reported that 52 Instruments of Proxy had been received from Members. Of these, 51 were in favour of Committee Members and 1 in favour of another Member. (A full list of these Instruments of Proxy is held by the Secretary and filed with the Minutes.)

2. Minutes of Eleventh Annual General Meeting

The Chairman advised that a summary of the Minutes of the Eleventh Annual General Meeting, held on Saturday 6 June 2009, had been provided to Members in the August 2009 issue of The Darjeeling Mail. Concurrently, the full Minutes had been published on the Society’s website with provision being made for those Members without internet access to obtain copies.

The Chairman further advised that the full Minutes of the Eleventh Annual General Meeting had been circulated to Members as an insert in the February 2010 issue of The Darjeeling Mail.

The Secretary had received no comments on the Minutes.

The Resolution to approve the Minutes was proposed by Cedric Lodge, seconded by Hugh Smith and carried unanimously.

The Minutes were then signed by the Chairman as a correct record of the proceedings.

3. Receive and adopt the Committee Report for 2009

The Chairman advised that the Committee Report for 2009 had been published in the May 2010 issue of The Darjeeling Mail. He pointed out that, as a Committee, the aim was to be completely transparent in its activities. Accordingly, the Report was very detailed and, in accordance with the procedure introduced at the 2009 AGM, included the reports of the Society's Officers.

The Chairman drew attention to the principal points in his Report. He then called upon the several Committee Members and Society Officers to present their respective Reports.

The Committee Members and Society Officers presented their Reports.

(Secretary's notes:

No presentation was made by the Guidebook Liaison Officer, Tony Leopard, who was unable to attend the meeting.

The contents of the Committee Report are not provided in these Minutes as the Report has already been published.)

During the presentations, the following matters were recorded:

Sales and Exhibitions

Peter Barnes, after noting that sales of Iron Sherpa 2 were doing extremely well, requested Members to tell him of any suitable exhibitions of railway interest which he could attend.

Membership

Janine Bird said that membership numbers had improved since the beginning of the year and it was hoped that membership levels would reach a record number by the year-end.

Tours

Peter Jordan said the current TV series on Indian Hill Railways should improve the take-up of tours.

The Resolution to receive and adopt the Committee Report for 2009 was proposed by Philip Power, seconded by Graham Hopker and carried unanimously.

The Chairman placed on record his appreciation of the support and assistance given to him by Committee Members and the Society's Officers.

4. Approve the Accounts for 2009 and receive the Auditor's Report thereon

The Chairman advised that the Accounts for the year ended 31 December 2009 and the Auditor's Report thereon had been published in the May 2010 issue of The Darjeeling Mail.

The Resolution to approve the Accounts for the year ended 31 December 2009 and to receive the Auditor's Report thereon was proposed by Graham Mercer, seconded by John Vickers and carried unanimously.

5. Appointment of Auditor

The Chairman reported that the Society's Auditor, Chris Greaves, had stated that he was willing to be re-appointed as Auditor to the Society.

The Resolution to re-appoint Chris Greaves as Auditor to the Society to serve until the conclusion of the next Annual General Meeting was proposed by Alan Meldrum, seconded by John Lilly and carried unanimously.

The Chairman placed on record his deep appreciation, and that of the Committee, for the work done by Chris Greaves as Auditor to the Society.

6. Election of Committee Members

The Chairman pointed out that Rule 9 of the Society's Constitution provided that "two members shall retire each year and may offer themselves for re-appointment". This year it was the turn of himself and Eddie Lang to retire. They had both offered themselves for re-election.

The Chairman further pointed out that Rule 11 of the Society's Constitution provided that the Committee "May co-opt members to fill vacancies on the Committee ... the co-opted members must retire at the next AGM." During 2009, Peter Barnes had been co-opted to the Committee under this Rule. He now had to retire but offered himself for election.

The Secretary confirmed that no other nominations to the Committee had been received.

The Vice-Chairman, Paul Whittle, took the chair.

The Resolution to re-elect David Barrie to the Committee was proposed by Peter Jordan, seconded by David Mead and carried unanimously.

The Chairman, David Barrie, resumed the chair.

The Resolution to re-elect Eddie Lang to the Committee was proposed by Michael Melbourne, seconded by Peter Jordan and carried unanimously.

The Chairman said that Peter Barnes had been co-opted to the Committee during 2009 as Exhibitions and Sales Officer. His CV had been forwarded to Members as an insert in the February 2010 issue of The Darjeeling Post. This CV showed that Peter Barnes had excellent credentials for the post.

The Resolution to elect Peter Barnes to the Committee was proposed by Paul Whittle, seconded by Peter Jordan and carried unanimously.

7/8. Existing Constitution

The Chairman addressed the meeting as follows:

“Agenda Items 7 and 8 comprise two related Resolutions:

- First, to amend the existing Constitution to allow the Society to support the activities of the Darjeeling Railway Community Support and similar charities operating in the area of the DHR: and of the Education Group; and
- Second, to approve retrospectively donations made either directly to or through the Darjeeling Railway Community Support.

“The background to these two Resolutions is provided in the Explanatory Note contained in the insert to the February 2010 issue of The Darjeeling Mail.

“Arising from a review by the Society’s Auditor, Chris Greaves, of the draft Memorandum and Articles for the proposed new company, he pointed out that, in his opinion, the existing Constitution did not cover either donations made to or through the Darjeeling Railway Community Support or the activities of the Education Group. The Auditor suggested that, in order to resolve this issue, an appropriate amendment be made to the existing Constitution and that retrospective approval of Members be sought for donations made to or through the Darjeeling Railway Community Support.

“After careful consideration, your Committee accepted the Auditor’s advice and suggested corrective actions – resulting in the two Resolutions before you today.

“I would add that, pending the approval of the Resolutions, all support for the Darjeeling Railway Community Support and the activities of the Education Group have been placed on hold.”

The Chairman then read out the first Resolution:

“THAT the Constitution of the Society be amended by inserting the following additional objective:

“2.6 to support the activities of the Darjeeling Railway Community Support and other similar charities operating in the area of the Darjeeling Himalayan Railway; and of the Education Group.” ”

The Chairman, after pointing out that any amendment to the Constitution required a two-thirds majority of those voting at the meeting, asked whether Members had any questions.

Derek Cobby said that the future of societies like the DHRS was dependent on the recruitment of volunteers. He expressed his concern that, if the administration of societies became over-bureaucratic and complicated, recruitment would be affected.

In reply, Paul Whittle said that approving the Resolution before the meeting would not result in any extra work and should have no effect on recruitment. The proposed Resolution was merely formalising existing procedures for the Darjeeling Railway Community Support and the Education Group.

Richard Wallace said he supported the Resolution as the procedure defined was clear and concise. However, he had concerns regarding the next Resolution, which dealt with the Memorandum and Articles for the proposed company.

The Resolution was proposed by Philip Power, seconded by Robert Mason and put to the meeting with the following result:

Those for	54
Those against	1
Those abstaining	0.

The Chairman, after announcing the result of the voting, declared that, as the “for votes” exceeded the required two-thirds majority, the Resolution to amend the existing Constitution was approved.

The Chairman then read out the second Resolution:

“THAT Members retrospectively approve donations made either directly to or through the Darjeeling Railway Community Support during 2008 and 2009 totalling £2,500.”

The Chairman pointed out that the donations of £2,500 comprised:

2008 – One lakh Rupees (£1,250) to Rajendra Baid’s India Support Group to celebrate ten years of the Society. DRCS acted as a “postal service” for this donation, which was announced at the DHR Lovers’ Conference to raise the profile of the DRCS.

2008 - £750 annual donation to the DRCS by the Society.

2009 - £500 annual donation to DRCS by the Society.

The Resolution to approve retrospectively donations made either directly to or through the Darjeeling Railway Community Support in 2008 and 2009 totalling £2,500 was proposed by Alan Meldrum, seconded by John Clemens and passed unanimously.

The Chairman pointed out that the necessity for the two preceding Resolutions highlighted the need for the existing Constitution to be replaced by a new Constitution, which would correctly reflect the activities and aims of the Society.

9. New Constitution

The Chairman said that this was the most important item on the Agenda for the meeting.

The Chairman then addressed the meeting as follows:

“At the AGM held on 6 June 2009, Members approved the following Resolution:

“THAT subject to Members approving the draft Memorandum and Articles of Association, the Society be incorporated as a company limited by guarantee and that, subject to such incorporation and if found feasible and to the advantage of the Society and subject to approval by Members, application be made to the Charity Commission for registration as a charity in England and Wales.”

“In the November 2009 issue of The Darjeeling Mail, I reported that the draft Memorandum and Articles of Association (the “M & A”) had been published on the Society’s website and members were invited to comment on this draft not later than 31 December 2009.

“In the February issue of The Darjeeling Mail, I reported that four Members had provided their comments. These had been considered by your Committee and changes made to the draft. However, certain of the comments had wide-ranging implications and it was planned to review these direct with the Members concerned in the hope that agreement could be reached.

“In the May 2010 issue of The Darjeeling Mail, I reported that two of the four Members had submitted further extensive and, in some instances, very different comments. In addition a further Member had provided his comments, thus bringing the total number of Members commenting to five. Again, after careful consideration, appropriate amendments were made to the M & A.

“I personally regret that, despite a full exchange of correspondence, it has not been possible to reach agreement with two Members on the wording of the final M & A.

“The areas where agreement could not be reached are:

- Firstly, the use of the Charity Commission’s model M & A as a basis for drafting the final M & A, and
- Secondly the wording of Articles 4(2) – other railways and 4(4) – charitable activities.

“As these are matters of considerable importance, I will repeat verbatim my report to you in the May 2010 issue of The Darjeeling Mail:

“Some Members appear to have assumed that, because the M & A have been framed in accordance with the model issued by the Charity Commission, your Committee wishes to register the Society as a charity in the near future. This assumption is incorrect. The specific matter was not discussed at the AGM in 2009 but Members did pass a Resolution that recognised the future possibility of the Society applying for charity status. Accordingly, and in

accordance with Members' wishes, the final M & A is based, as far as practicable, on the Charity Commission's model. I can state clearly that it is not the intention of the Committee to move towards charity registration in the foreseeable future. In any event, this would require the approval of Members at a future AGM: it could not happen otherwise.

“Article 4(2): this Article provides for the Society to take a limited interest in railways other than the DHR. Such railways include, in particular, the Matheran Light Railway and the Tipong Colliery Railway – both of which currently operate “B” class locomotives. Also it is possible that the Gwalior Light Railway will operate a “B” class locomotive. More importantly, the Article will give the Society power to provide advice, for example, on the operation of other railways, if so requested by Indian Railways and if authorised by the directors. (The provision of such advice should enhance the reputation of the Society with Indian Railways.) In this regard, whilst there is the power, the Society does not have to exercise it. Our commitment to the DHR must always take precedence and this is recognised in the opening words of Article 4(2).

“Article 4(4): this Article permits the Society to support charities working in the general area of the DHR, including the Darjeeling Railway Community Support (DRCS), the India Trust and the Education Group. I believe this work enhances the reputation of the Society and assists the continued operation of the DHR by in turn assisting the local population. The wording of this Article is based on the preferred wording of the Charity Commission which should facilitate any future application for charity status. The wording has also been endorsed by the DRCS.”

“As Members are aware, the final M & A were published on the Society's website on 1 May and as an insert in the May 2010 issue of The Darjeeling Mail. The final M & A are the result of over five months of consultation when every Member has had the opportunity to provide his or her comments.

“In view of the extensive period of consultation and to ensure beyond doubt the validity of Instruments of Proxy submitted, no further amendments to the M & A can be accepted and no Resolution other than that on the Agenda will be taken.

“I take this opportunity to record my appreciation to those Members of the Society who have provided their comments on the M & A. I also thank those Members of the Committee and the Society’s Honorary Auditor, who have spent considerable time and effort in reviewing and responding to these comments.

“Your Committee endorses the final M & A and recommends that Members pass the Resolution approving this document.

“I would point out that, under the existing Constitution, to approve the final M & A requires a two-thirds majority of those voting at today’s meeting.

“Before I seek a proposer and a seconder for the Resolution, are there any comments from Members?”

A discussion ensued during which the following matters were recorded:

Hugh Smith said he was a member of a club which had been incorporated as a company limited by guarantee. Although this incorporation had resulted in some extra bureaucracy, this was more than offset by the advantage to members of limited liability.

Peter Tiller said that, whereas he supported the Society becoming a company limited by guarantee, he considered the final M & A, based on the Charity Commission’s model, to be too complicated. Unlike the Committee, he had sought legal advice. This was that the Society adopt the model M & A under the Companies Act 2006. He pointed out that, under S.31 of the Act, a company could be registered with objects that were unrestricted. If it were decided to apply for charity status at a later date, the M & A could be amended to meet the Charity Commission’s requirements. He then proposed that consideration of the M & A be deferred until the 2011 AGM.

Richard Wallace said that, as the objects were not restricted, he would support Peter Tiller’s proposal.

Peter Jordan pointed out that the final M & A had been based on the Charity Commission's model since the Resolution passed at the 2009 AGM had clearly recognised the possibility of the Society applying for charitable status. He considered that it would be totally wrong to have a company with unrestricted objects. This view was shared by the Society's Auditor, Chris Greaves, who had extensive hands-on experience in these matters and had advised the Society on legal aspects. Peter Jordan then read out extracts from an email by Chris Greaves.

Bob Mason, after stressing the importance of limited liability, said that clear objects were essential and these should be specified in the Articles. Accordingly, he was in favour of the final M & A now before the meeting.

Cedric Lodge said that he fully endorsed the final M & A, based on the Charity Commission's model.

Dave Pearson said that he agreed with the views of Bob Mason and supported the final M & A. On the question of limited liability, he said the Committee could be criticised for not resolving this before.

Richard Wallace suggested that, if the M & A based on the Charity Commission's model were approved, an annual report be made to Members on any problems encountered in their operation.

Eddie Lang said that the issue of adopting an alternative M & A, with unrestricted objects, had never been raised directly with him by Peter Tiller. If it had, the issue could have been properly addressed before the meeting. Regarding the concerns of Richard Wallace, although the M & A based on the Charity Commission's model had tight controls, he did not envisage any problems and pointed out that thousands of companies operated under similar M & A. Regarding the suggestion that the proposed company has unrestricted objects, this would permit Directors to engage in activities clearly outside the purpose of the Society – and Members could not prevent this!

John Vickers said that he supported the final M & A now before the meeting.

The Chairman brought an end to the discussion and asked for a proposer and seconder.

The Resolution was proposed by Jonathan Clay, seconded by Robert Cooper and put to the meeting with the following result:

Those for	53
Those against	0
Those abstaining	2.

The Chairman, after announcing the result of the voting, declared that, as the “for votes” exceeded the required two-thirds majority, the following Resolution was passed:

“THAT the draft Memorandum and Articles, previously made available to Members, be approved and that these Memorandum and Articles be used in applying for incorporation of the Society as a company limited by guarantee.”

The Chairman said that the formal business of the Annual General Meeting was now concluded.

The meeting adjourned for lunch at 1.45 pm and reconvened at 2.40 pm.

The Chairman opened the reconvened meeting by making two brief announcements:

“Members are reminded of the forthcoming event at The Beeches on Sunday, 27 June, arranged by Committee Member, Fuzz Jordan. Details were provided in a flyer enclosed with the May 2010 issue of The Darjeeling Times but please speak to Fuzz, if necessary.

“Our associated company, Darjeeling Travel, provides the Society with a good source of income from capitation fees, which that company pays to the Society for each tour client. The tours are also a good recruiting ground for new Members. Brochures detailing the 2011 tours will be found on the Society’s sales stand. If you have not been to Darjeeling, a trip there is a never-forgotten experience.”

10. Other Business

10.1 AGM Venue

The consensus of Members present was that the venue, facilities and lunch for the AGM were good and that consideration be given to holding the 2011 AGM at the same venue.

10.2 Vote of Thanks

Philip Power congratulated the Committee and the Society's Officers for doing a wonderful job and for producing a fantastic magazine – comments endorsed by all Members present.

10.3 Le Chemin de Fer Touristique: Froissy-Cappy-Dompierre

Jonathan Clay said that next year Adrian Shooter's "B" class would be visiting the preserved narrow gauge railway at Froissy in northern France. He suggested that the Society arrange a tour to Froissy to coincide with this visit.

Richard Wallace suggested that, if such a tour were arranged, the preserved railway at CF de la Baie de Somme also be visited.

10.4 "B" Class Injectors

Cedric Lodge said that IR wished to purchase new injectors and had asked whether the Society could assist. A source had been found in the UK but the cost - £5,000 per pair - was too high. Accordingly, he was considering establishing a workshop to manufacture injectors. To do this, he needed to obtain a sample injector and asked whether any Member could bring one back from India.

10.5 Raffle

The Chairman announced that £136 had been collected for DRCS from the raffle and thanked John Clemmens for providing the first prize. A member had also donated £50 to the DRCS.

There being no further business, the meeting closed at 3.00 pm.

(Following closure of the meeting, Peter Jordan gave a slide presentation based on the Narrow Gauge Adventurer Tour arranged by Darjeeling Tours earlier that year.)