

Maine Pilotage Commission



MaineDOT ~ Room 216 Conference Room
June 29, 2023

Minutes of Pilotage Commission Meeting

In compliance with MRSA 38 § 85 and in fulfillment of the Maine Pilotage Commission's duties addressed in MRSA 38 § 90, a meeting of the Maine Pilotage Commission was held on June 29, 2023.

Maine Pilotage Commission Members constituting a quorum were:

David Gelinas	– Pilot Member
Gerald Morrison	– Pilot Member
Adam Philbrook	– Pilot Member
Carrie Norton	– Public Member
Lindsey Pinkham	– Public Member
Levi Ross	– Industry Member
Brian Downey	– Pilotage Commission Administrator

Interested Parties present were:

Skip Strong	– Penobscot Bay and River Pilot
Michael Ames	– Independent

Maine DOT staff present were:

Chris Mayo	– Maine DOT
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Call to Order (Brian Downey)

Mr. Downey opened the meeting at 1035 and acknowledged a quorum. Mr. Downey then offered opening remarks and facilitated introductions around the room. The Commission also welcomed Levi Ross to the Commission as its newest duly appointed member.

There was one addition to the agenda by Skip Strong to include discussion of the Clean-up Response Fund and Review Board which was discussed under agenda item 5 during the meeting. There were no carry over items from the March 15, 2023 meeting. Hearing no objections, it was thus:

RESOLVED to accept the agenda.

Review/Approval of the Minutes from March 15, 2023 (Brian Downey)

After considering the content of the March 15, 2023 minutes, and hearing no objections or abstentions it was thus:

RESOLVED to accept the minutes of the March 15, 2023 Maine Pilotage Commission meeting.

Election of Commission Chair

Mr. Downey explained that typically at the first Commission meeting of the new calendar year the Commission is required per the Maine State Pilotage Rules to elect its Chair for the next year. Jerry Morrison nominated Carrie Norton to be elected Chair before the March 15, 2023 meeting. During that meeting the nomination was discussed but a formal vote was postponed to the next meeting to allow Carrie Norton a chance to be better acquainted with the roles and demands of the Chairperson position before accepting the nomination. No other nominations were offered or received; therefore, the vote was carried out with a motion from Lindsey Pinkham to duly elect Carrie Norton as the Commission Chair. David Gelinis seconded the motion; Hearing no objections or abstentions it was thus:

RESOLVED to elect Carrie Norton as the Maine Pilotage Commission Chairperson.

Finance

Mr. Downey gave a synopsis of the current state of funding for both the Ports and Marine Account as well as the Pilot Training Fund. The *Ports and Marine Accounts* has a current balance of **\$5,168.04** which reflects both disbursements and income since March 2023. License income and insurance expenses flow through this account. In short, the Ports and Marine Account continues to lose money each year as the expenditures out paces the limited income from license fees. Mr. Downey suggested that the commission start to look for other sources of funding to ensure uninterrupted commission business.

- Discussion of this point yielded a hybrid solution of increased user fees for pilots along with a state supported funding stream; which the Commission tacitly supported in discussion. Therefore, a more formal proposal will be prepared for consideration by the Commission.

The *Pilotage Training Account* currently has a balance of **\$78,641.81**, which has been generally stable with no major expenditures since the COVID-19 pandemic. The Memorandum of Understanding between the Commission and Maine DEP needs to be renewed in order to

maintain a reliable funding source to continue world class pilot training. Maine DOT has engaged with Maine DEP but an MOU remains outstanding.

- Discussion of this included the possibility of capping the fund at a pre-determined balance. Mr. Downey offered, that a proposed cap would need to be justified with a sound budget analysis of training needs to determine what the appropriate cap may be, and would also need an assurance of the long-term health of training funds from the DEP MOU.

Ports & Marine Account Cash			
Cash Balance			
15 Mar 2023	Beginning Cash Balance		\$5,570.54
Incoming Cash Receipts			
			00.00
	Total Cash		\$5,570.54
Cash Disbursements			
	Operating Expenses	Board Member Mileage	\$402.50
29 Jun 2023	Ending Cash Balance		\$5,168.04
Pilotage Training Fund			
Pilotage Training Fund Balance			
15 Mar 2023	Beginning Pilotage Training Fund Balance		\$78,641.81
Incoming Training Fund Receipts			
			\$00.00
	Total Fund		\$78,641.81
Training Disbursements			
	Training Reimbursement		\$00.00
29 Jun 2023	Current Pilotage Training Fund Balance		\$78,641.81

Training Plan Update (Brian Downey)

Mr. Downey reviewed the current training plan. Specifically, he discussed the following training topics:

- Investigator training was completed for 3 commission designated investigators on June 15, 2023. The seminar was offered by a contracted provider through MITAGS. The seminar proved valuable in opening discussion among designated investigators regarding potential improvements to the Commission’s investigation program.

- Manned Model Training is considered the highest level of pilot training and the commission has been trying to obtain the training for its junior pilots. Currently, it was raised the Douglas Fournier is tentatively slated to attend MPI Manned Model training in Covington, LA in November of 2023.
- MITAGS offers a 1-day Contingency Planning for Pilots course as well as a 1-day Media Relations for pilots course. Mr. Downey is collaborating to export the training in a combined 2-day course in Maine using a MITAGS instructor. In the event MITAGS is unable to deliver the course in 2 days with the same instructor, then the courses may be split up into 2 separate events.
- Chris Mayo and Maine DEP have engaged and are pursuing renewal of the MOU between the Pilotage Commission and the Maine DEP.

Frenchman Bay Pilotage Issues & Town Ordinance (David Gelinias)

In November of 2022, the Town of Bar Harbor voted to adopt a “Land Use” ordinance capping the number of persons allowed to come ashore from cruise ships to 1,000 persons per day. The impact of the new ordinance will lead to passenger (and thus cruise ship) reductions of 90-95% in Frenchman Bay which will drastically reduce the servicing pilotage group’s overall revenue, thereby impacting sustainability of the regional pilotage system.

The ordinance is being legally challenged by a group of local businesses under the banner Association to Preserve and Protect Local Livelihoods. The case has finished the discovery phase and will now be heard in a bench trial at the Federal District Court in Bangor starting July 11. A decision is anticipated 2-3 months after the completion of the trial.

If the ordinance holds up to legal scrutiny, the pilotage group, which is the largest governed by the Maine State Pilotage Commission, will be faced with difficult decisions including but not limited to:

- Pilot boat lay-up or divestiture;
- Staff/crew lay-offs;
- Changes in pilot stations; and
- Pilot lay-offs.

The results of any of the above could have a cascading effect on pilot boat readiness and availability, pilot availability, reduced transportation efficiency and degraded safety.

Medical Review Policy (Brian Downey)

The Coast Guard issued a final rule in November 2022 to extend the maximum validity period of merchant mariner medical certificates issued to first-class pilots, and masters or mates serving as pilot, from 2 years to 5 years. **The rule maintains the requirement for pilots to complete annual physicals.** Mr. Downey developed a new (proposed) Pilotage Commission form which will permit a pilot to sign an attestation annually affirming that a full physical was completed within the annual window by a licensed medical doctor and that the pilot continues to meet the physical criteria for service. Such a form is intended to relieve the pilots of submitting a CG form 719K or other sensitive medical documents to the Pilotage Commission. The attestation could best protect pilot privacy and Health Insurance Portability and Accountability Act (HIPAA)

compliance while assuring the annual physical requirement is verified and pilot capability is maintained.

Safety (Brian Downey)

Pilot Ladders – At the last meeting, a number of non-compliant pilot ladder issues were discussed regarding a small cruise ship company with multiple ships operating in Maine for the 2023 cruise ship season. As a follow-up to that discussion, it was determined that at least one of the ships identified as non-compliant effected modifications to improve the pilot boarding arrangement. Additionally, the 2 ships in question are now discontinuing service to Maine. It was reiterated that pilot boarding violations should be reported to the Administrator of the Pilotage Commission for tracking and the Coast Guard for potential enforcement action.

Propulsion - On February 13, 2023, a Maine pilot refused pilotage to a ship with malfunctioning propulsion until the engine fault was resolved. A 600' Panamanian flagged, bulk ship arrived in the Eastern Approach to Penobscot Bay enroute to Searsport to deliver cargo to the terminal. After boarding, the pilot began the transit to eventually anchor near Searsport to await an open berth. The pilot requested an engine order of half ahead (from slow ahead) to bring the vessel up to normal transit speed, when the engine failed to maintain the proper speed. The pilot requested twice to increase speed, but the engine would only increase speed shortly before resuming slow ahead. Uncomfortable with the engine's performance, the pilot contacted the Coast Guard to report the propulsion limitation. Although authorized to enter port with the reduced engine capacity, the pilot directed the vessel back to sea to allow the crew to repair a faulty cylinder. After trouble shooting, it was determined by the ship's crew that the engine was returning to slow ahead due to an engineered safeguard to protect the engine from unwanted damage. Further trouble shooting indicated an air problem in the engine's number one cylinder as the root cause of the throttle failure which was subsequently corrected.

Investigation Roles – Mr. Downey raised that the current Commission Rules do not adequately address casualty or other safety related investigations. While such investigations have been conducted, they have been outside of the scope of the rules. It was suggested that an Investigation Sub-committee be created to review the current rules and policies regarding investigations and, if necessary, revise the rule and policies to better reflect the of the Commission's current safety goals. There was also a motion from Carrie Norton to review, and if necessary amend the Pilotage Rules, to better capture the Commission's casualty investigation expectations. Lindsey Pinkham seconded the motion. Hearing no objections or abstentions it was thus:

RESOLVED to move forward with a review and amendment of Part C paragraph 15, 16, 18, and 19 of the Pilotage Rules (Investigation).

Laden Tanker Escort (Mike Ames)

Mike Ames discussed his experience with tank ship escorts on the West coast of the United States. He also discussed the benefits of understanding the full capabilities of assist tugs. The discussion engaged a variety of members and left the group with a better understanding of pilot and ship docking asset capability.

Opportunities for Improvement (Brian Downey)

Annual Policy Review - It was discussed that the Commission's library of policies should be reviewed and, if necessary, updated annually. It was further discussed that instead of a full round table review of the policies, that it would be more advantageous to create a matrix of assignments and distribute an equal portion of the policy review to each Commission member. The Administrator will create a Matrix and make appropriate assignments.

Commission Manual - Mr. Downey outlined a plan to better capture some long standing unwritten best practices as well as revision of current written policy in a comprehensive Pilotage Commission Administrator's Manual.

Commission/License Status (Brian Downey)

It was discovered that the commissions for some of our most recently appointed Commission members (appointed in October of 2021) have already (prematurely) expired. Lindsey Pinkham, Carrie Norton, and Adam Philbrook are now expired and must resubmit a full application for renewal. Jerry Morrison, who also renewed was only renewed for 15 months, but remains current. David Gelinas, Shawn Moody, and newly appointed Levi Ross have submitted their packages for renewal but have yet to receive their new certificates from the Office of Boards and Commissions. Carrie Norton has engaged with the Governor's Office of Boards and Commissions to ensure that future commissions are for full 3-year terms as required by 38 MRS 89.

- Commission Renewals
- Pinkham (August 18, 2022)
- Norton (August 18, 2022)
- Philbrook (August 18, 2022)
- Gelinas (TBD)
- Moody (TBD)
- Morrison (August 18, 2024)
- Ross (TBD)

- License Renewals - None
- Upcoming Renewals – None.

12. New Business/Old Business

- Discussion of Clean-up Response Fund and Review Board (covered under agenda item 5).

Adjourn (Brian Downey)

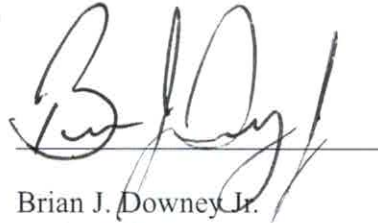
Carrie Norton motioned to adjourn the meeting at approximately 1:50 p.m; Levi Ross seconded the motion. Hearing no objections or abstentions it was thus:

RESOLVED adjourn the convening of the Maine Pilotage Commission meeting.

Next Meeting: October 19, 2023 at 10:30 a.m. at the Maine DOT Building:

Room 227
24 Child Street
Augusta, ME 04330

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Brian J. Downey Jr.", written over a horizontal line.

Brian J. Downey Jr.
Maine Pilotage Commission
Administrator

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Carrie Norton", written over a horizontal line.

Carrie Norton
Maine Pilotage Commission
Chairperson