

Maine Pilotage Commission



MaineDOT ~ Room 227 Conference Room
March 28, 2019

Minutes of Meeting

In compliance with MRSA 38 § 85 and in fulfillment of the Commission's duties addressed in MRSA 38 § 90, a meeting of the Maine Pilotage Commission was held on March 28, 2019 in Augusta, Maine.

Administration:

Maine Pilotage Commission Members constituting a quorum were:

Captain Charles Weeks	– Chair of the Commission
Captain David Gelin	– Pilot Member
Captain Mark Klopp	– Pilot Member
Captain Gerald Morrison	– Pilot Member
Mr. Tom Dobbins	– Maritime Industry Member
Captain Shawn Moody	– Maritime Industry Member
Captain John Worth	– Public Member
Mr. Brian Downey	– Pilotage Commission Administrator

Maine Pilotage Commission Interested Parties present were:

Captain Michael Ames	– Independent
Captain Adam Philbrook	– Penobscot Bay and River Pilot
Captain Skip Strong	– Penobscot Bay and River Pilot
Mr. Mark MacDonald	– Chairman and CEO, Bay Ferries Limited <i>(Telephonically for Agenda Item 11 only)</i>

Maine DOT staff present were:

Mr. Matthew Burns	– Maine DOT
Ms. Kim King	– Maine DOT <i>(through Agenda Item 4 only)</i>

Agenda Item 1 – Call to Order

Captain Weeks opened the meeting at 1025 and acknowledged a quorum.

Amendments and Carry-Over Items: There were no carry over items from the December 13, 2018 meeting.

Hearing no further amendments or objections, it was thus:

RESOLVED to accept the agenda

Agenda Item 2 – Commission Elections

Mr. Downey explained that being 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. Captain Weeks volunteered to continue serving as the Chair of the Commission. Mr. Downey outlined that he had previously announced that the election would occur during this convening of the Pilotage Commission and solicited nominations of any new candidates. Mr. Downey reiterated the solicitation for new candidates. No new candidates were nominated. Captain Worth motioned to retain Captain Weeks as the Chair of the Commission. Captain Morrison seconded the motion. Hearing no objections or abstentions it was thus:

RESOLVED that Captain Charles Weeks was duly elected as the Chair of the Maine Pilotage Commission for a term of one calendar year.

Agenda Item 3 – Approval of December 13, 2018 meeting Commission Meeting Minutes

After considering the content of the December 13, 2018 meeting minutes, Captain Worth motioned to accept the minutes. Mr. Dobbins seconded the motion; and hearing no objections or abstentions it was thus:

RESOLVED to approve the minutes of the December 13, 2018 Maine Pilotage Commission meeting.

Agenda Item 4 – Financial

Ms. King reported on *Ports and Marine Accounts* which has a current balance of \$9,161.39. License income and insurance expenses flow through this account. The *Pilotage Training Account* currently has a balance of \$40,190.83.

Ports & Marine Account Cash			
Cash Balance			
31 October 2018	Beginning Cash Balance		\$9,526.39
Incoming Cash Receipts			
	Cash Receipts		\$00.00
	Total Cash		\$9,526.39
Cash Disbursements			
		Board Travel	(\$365.00)
28 March 2019	Ending Cash Balance		\$9,161.39
Pilotage Training Fund			
Pilotage Training Fund Balance			
31 October 2018	Beginning Pilotage Training Fund Balance		\$50,818.41
Incoming Training Fund Receipts			
	Fund Receipts		\$00.00
	Total Fund		\$50,818.41
Training Disbursements			
		NTSB Investigation Course	(\$2,222.67)
		MPI Manned Model Course	(\$8,404.91)
28 March 2019	Current Pilotage Training Fund Balance		\$40,190.83

After considering the contents of the Ports and Marine Accounts and Pilotage Training Account, Captain Worth motioned to accept the report. Captain Morrison seconded the motion; and hearing no objections or abstentions it was thus:

RESOLVED to accept the respective financial reports as summarized above.

Agenda Item 5 – Low Volume Areas

Mr. Downey reviewed the status of the Low Volume Area project which seeks to attract and maintain a qualified pilot pool for low volume areas. While several attempts were made to convene the Low Volume Area Workgroup over the winter months, the Workgroup’s meetings were cancelled due to weather and schedule challenges. Therefore, the Workgroup session was incorporated into this Pilotage Commission meeting.

Mr. Downey revisited the plan to facilitate the training of new pilots for low volume areas in part with the modification to the State Statute (38 § 91 *Qualifications of Licensees*).

The italicized portion of the below text is draft language of “38 § 91. *Qualifications of Licensees*” which was approved by the Commission at the December 13, 2018 meeting and was read and discussed as follows:

“An applicant must complete training trips in the area for which that person is making application under the direction of a licensed pilot actively piloting in that area. These training trips must be on vessels of at least 1600 gross tons *except in areas of low traffic volume as defined by the Maine Pilotage Commission. In such cases, the Commission may establish alternative initial license criteria for existing pilots licensed under the jurisdiction of the Maine Pilotage Commission seeking low volume route endorsements.*”

Mr. Downey also outlined a draft formal definition of Low Volume Area which is intended to be incorporated into the Maine Pilotage Rules as approved by the Commission at the December 13, 2018. The proposed text was read and discussed as follows:

“An area covered under the Maine Pilotage Commission Rules that requires pilotage but receives low traffic volume (less than 2 vessels annually) and/or calling vessel tonnage or draft is below 1,600 gross tons or 9 feet respectively.”

Mr. Downey also reviewed a draft Maine Pilotage Commission Policy Letter which addresses the Commission’s proposed policy to license pilots for Low Volume Areas. The discussion yielded the following comments:

- Captain Philbrook suggested that language be modified to highlight that Low Volume Areas are a dynamic situation, i.e., a port will no longer be eligible for low volume policies when the size and frequency of ship traffic increases which no longer makes the policy necessary. This suggestion was thus tacitly:

APPROVED and will be incorporated in the final draft Low Volume Area policy.

- Mr. Dobbins suggested that some type of averaging be implemented when determining that the traffic volume is below the needed ship arrivals to achieve the recency requirements detailed in Maine Pilotage Rules. This suggestion was thus tacitly:

APPROVED and will be incorporated in the final draft Low Volume Area policy.

- Captain Gelinas requested clarification of the Penobscot River description to clearly indicate that the Low Volume Area is between Bucksport and Bangor. This suggestion was thus tacitly:

APPROVED and will be incorporated in the final draft Low Volume Area policy.

- Captain Gelinas requested clarification to Paragraph 4. a. of the draft policy to reflect that pilots that are actively piloting are eligible for a Low Volume Area endorsement. This suggestion was thus tacitly:

APPROVED and will be incorporated in the final draft Low Volume Area policy.

- Captain Gelinas motioned to modify the initial license requirements in paragraph 4.c. of the draft Low Volume Area policy to include restrictions to daylight only operation for Low Volume Areas and to replace the comprehensive written examination with a comprehensive chart drawing. The motion further modified the required initial training round trip for the Penobscot River (Bucksport to Bangor) contained in the Table in Paragraph 3 of the draft policy from 18 to 4 training round trips; Captain Worth, motioned to consider 6 training round trips for Bucksport to Bangor; Captain Klopp seconded the motion, and hearing no objections or abstentions it was thus:

RESOLVED to accept the amendments to the draft policy letter as detailed above.

Agenda Item 6 – Marine Casualty Investigation MOU with Coast Guard

Mr. Downey outlined his efforts to secure a cooperative investigation Memorandum of Understanding between Coast Guard Sector Northern New England and the Maine Pilotage Commission. The MOU will provide a framework to ensure that the Pilotage Commission and the Coast Guard conduct cooperative casualty investigations and improve our ability to share appropriate information during investigations. The MOU was under review at the Sector at the time of the Commission meeting.

POST HEARING: LT Fransson of Sector Northern New England contacted Mr. Downey via telephone on April 1, 2019 to notify the Maine Pilotage Commission that the MOU will not be signed as the Coast Guard is unable to make commitments to share pending investigative findings and evidence. Regardless, the Coast Guard assures the Commission that investigative collaboration is desired but they can not make formal commitments that could be perceived as circumventing normal information sharing protocols such as the Freedom of Information Act.

Agenda Item 7 – Pilot Boat Operations

Captain Worth offered a brief verbal summary of an incident during which a pilot boat allided with a moored derelict trawler on November 30, 2018. Although it was determined that the incident does not meet the statutory threshold for formal Pilotage Commission investigation, the Commission engaged a designated investigator to assess the accident and voluntarily worked in tandem with Sector Northern New England to examine the case to determine any safety lessons to be learned. Captain Worth was assigned to investigate. The accident resulted in damage to the

pilot boat and minor injuries to the vessel operator which required out-patient medical treatment of the pilot boat operator. The accident was also investigated by the Coast Guard (Sector Northern New England).

Agenda Item 8– Manned Model Training Report

Captain Strong attended Manned Model Training at the MPI facility in Covington, LA in November. Captain Philbrook attended Manned Model Training at Port Revel (France) earlier in the year. Captains Strong and Philbrook collaborated to recommend to the Commission which Manned Model training provides better over-all value for future training consideration. In short, it was determined that the European programs at Port Revel and Warsash are the highest level of pilot training. MPI was also considered extremely high-quality training but not as versatile as the European offerings. Thus, it was suggested by Captain Strong that if a pilot were only to be availed one opportunity to attend manned model training in their career then the European training should be prioritized. Conversely, if it is anticipated that a manned model course was to be completed more than once in a career, then the MPI training would be an appropriate initial training for a junior pilot and the European training would be considered a more advanced course of study for more seasoned senior pilots.

Agenda Item 9– Training Plan Update

Mr. Downey briefed the Commission regarding pilot training. Mr. Downey developed a new three-year training plan for the Commission and collaborated with Maine DEP to continue to secure training funds. The DEP training fund MOU is likely to be renewed and signed in the short term. Pending renewal of the DEP training MOU, the three-year plan calls for the following training:

2019:

- Captain Germond was pre-approved to attend Azi-pod training and plans to attend in May of 2019 (this is a carry-over item from the previous three-year training plan).
- Two pilots are to attend to a High-Speed Craft – Bridge Resource Management (for Pilots) course at Marine Simulation Institute in anticipation of the international ferry shifting operations to Bart Harbor.
- One designated commission casualty investigator will attend ABS Academy Casualty Investigation and Analysis Course.
- One junior pilot may attend the MPI manned model course in Covington LA.

2020:

- Electronic Charting Display and Information System (ECDIS) for Pilots - to be delivered as a comprehensive refresher course for all active pilots. The refresher course will provide a level of educational standardization and consistency and aligns with the recommendations of the American Pilots Association. The final course provider is not yet determined but is likely to be Marine Simulation Institute.

2021

- Bridge Resource Management (for Pilots) (BRM-P) - to be delivered as a comprehensive refresher course for all active pilots. The refresher course will provide a level of educational standardization and consistency and aligns with the recommendations of the American Pilots Association. The course provider is anticipated to be Maritime Institute of Technology and Graduate Studies (MITAGS).

Agenda Item 10 – Commission Vetting

Captain Ames re-briefed this topic following his brief at a non-quorum meeting on November 15, 2018. He outlined a notional concept to vet (i.e., externally audit or assess the efficacy) the Maine Pilotage Commission in addition to the mandatory annual report that must be submitted to the Commissioner of Transportation each year not later than August 1 as well as the periodic GEA Report which was most recently completed on October 4, 2017 and briefed to the Maine Legislature's Transportation Committee in February 2018.

Agenda Item 11 – Rate Adjustments

Captain Gelinis initiated a discussion regarding proposed rate adjustments for Penobscot Bay and River as well as Frenchman Bay, Somes Sound, and Eastern Way. Captain Gelinis deposited a letter of March 28, 2019 outlining a proposal to modify the rates for the aforementioned areas starting in **January 1, 2020** to account for a 2% cost of living increase with scheduled steps in 2020 (2%) 2021 (2%) and 2022 (2%).

The proposal also created a new schedule of rates for the international ferry which will commence operations from Bar Harbor to Yarmouth, N.S. The proposed international ferry rates were suggested to be added to the Maine Pilotage Commission Schedule of Rates as Paragraph I as follows:

“The rate for a United States flag, United States crewed fast ferry less than 9,000 Gross Tons on regularly scheduled service between Bar Harbor, ME and Yarmouth, N.S.

- 2020 Minimum pilot units 128 at \$7.49 per pilot unit;
- 2021 Minimum pilot units 132 at \$7.64 per pilot unit; and
- 2022 Minimum pilot units 141 at \$7.79 per pilot unit.”

In addition to the new rate structure for the international ferry, the existing \$125 Capital Construction, Training and Technology fee is proposed to remain per each ferry arrival.

Note: The current minimum pilot rate requires an assessment of 160 Pilot Units each way for all waters served by the Penobscot Bay and River Pilots Association, therefore, the proposed ferry rate (if approved) will fall below the current minimum rate.

Mr. Mark MacDonald, Chairman and CEO of Bay Ferries Limited also provided a letter dated March 28, 2019 which was deposited to the Commission which requested consideration of adopting the proposed ferry rate structure in time for the **2019 operating season**.

Mr. MacDonald also joined the meeting via telephone and participated in the conversation regarding Agenda Item 11 only. During the conversation, he verbally reiterated that despite the original proposal of Penobscot Bay and River Pilots to initiate the new rates on January 1, 2020, he requested that the ferry portion of the rate modification be considered and pursued in time to be effective upon the commencement of the 2019 operating season (which is approximately June 24).

In consideration of Bay Ferries' letter and verbal request for a 2019 rate, Captain Worth motioned to set a rate hearing with an accelerated start date of the rates in 2019. Captain Morrison seconded the motion, Captain Klopp, Captain Moody, Captain Gelinis, and Mr. Dobbins abstained, and the motion thus:

DID NOT CARRY, due to a lack of majority.

Captain Gelinis motioned to request a hearing as soon as possible with the clarification that all proposed rates will take effect January 1, 2020 EXCEPT the newly proposed international ferry rate (Paragraph I) which he verbally modified during the meeting as follows:

- 2019 Minimum pilot units 128 at \$7.34 per pilot unit;
- 2020 Minimum pilot units 132 at \$7.49 per pilot unit;
- 2021 Minimum pilot units 141 at \$7.64 per pilot unit; and
- 2022 Minimum pilot units 141 at \$7.79 per pilot unit.

Captain Gelinis' motion also stipulated that the proposed ferry rate would continue to apply \$125 Capital Construction, Training and Technology fee per each arrival.

Captain Morrison motioned to accept the amended international ferry rate structure including the Capital Construction, Training and Technology fee per each arrival as verbally revised above by Captain Gelinis with a start year of 2019 with the minimum pilot units of 128 at \$7.34 per pilot unit. Captain Worth seconded the motion, Captain Gelinis and Captain Klopp abstained and the motion thus:

PASSED as verbally revised. A hearing shall be pursued to effect the proposed rate modifications.

It was suggested by Mr. Downey that considering a rate adjustment had not been initiated since 2015 that if other pilot groups wish to modify their rates that they deliver proposals to the Commission to be considered and included in any future rate hearings.

Agenda Item 12 – Commission/License Status

Captain Weeks reviewed the status of Pilotage Commission appointments. Captain Klopp's commission application was submitted in May of 2018 but was not acted upon by the out-going

Administration. Mr. Downey contacted the Governor's office in February 2019 to verify the status of that application which remains pending with all other State commissions. Commission reappointments due dates are as follows:

- Captain Klopp (August 18, 2018)
- Mr. Dobbins (October 7, 2019)
- Captain Worth (October 7, 2019)
- Captain Gelinis (October 7, 2019)

Captain Weeks also reviewed upcoming license renewals/actions which are as follows:

Upcoming Renewals/actions

- Captain Lord June 19, 2019
- Captain Philbrook Sept 3, 2019
- Captain Strong December 19, 2019
- Captain Read (deactivation in July 2019 due to relocation out of the State of Maine)

Agenda Item 13 – Other/Miscellaneous

Concluding Commission tasks include:

- Expedite a Rate Hearing targeted for mid-late May 2019 to effect rate adjustments.
- Pursue formal amendment of 38 § 91 through the State legislature.
- Revise the draft Low Volume Area Policy Letter to reflect the changes addressed at this meeting.
- Continue to pursue an investigation MOU with the Coast Guard.
- Execute the three-year training plan.

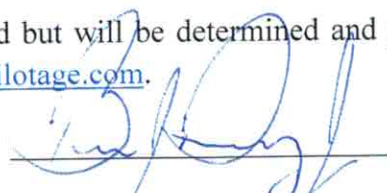
Agenda Item 14 – Adjourn

The meeting was adjourned by the Chair of the Commission, Captain Charles Weeks at 1310.

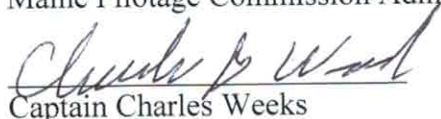
Next Meeting:

The next meeting was not scheduled but will be determined and posted on the Maine Pilotage Commission website - www.maine-pilotage.com.

Respectfully submitted:



Brian J. Downey Jr.
Maine Pilotage Commission Administrator



Captain Charles Weeks
Chair, Maine Pilotage Commission