

Maine Pilotage Commission



MaineDOT ~ Room 216 Conference Room
March 15, 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 March 15, 2023.

Due to a winter storm, the meeting was held remotely via video conference in compliance with Title 1, MRS § 403-B, and in accordance with the Maine Pilotage Commission's policy letter 1-21 of November 21, 2021.

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
Shawn Moody	– Industry Member
Brian Downey	– Pilotage Commission Administrator

Interested Parties present were:

Greg Smith	– Penobscot Bay and River Pilot
Skip Strong	– Penobscot Bay and River Pilot
Mark Klopp	– Klopp Marine Services
Susan Klopp	– Klopp Marine Services
Robert Peacock	– Quoddy Pilots
Michael Ames	– Independent

Maine DOT staff present were:

Chris Mayo	– Maine DOT
------------	-------------

Call to Order (Brian Downey)

Mr. Downey opened the meeting at 1030 and acknowledged a quorum. Mr. Downey then offered opening remarks and explained that Captain Weeks' retirement from the Commission is now official and that he would not be attending any additional meetings in the capacity of a commission member. Mr. Downey went on to explain that he would facilitate the meeting in the

absence of a duly elected Chairperson. There were no additions to the agenda nor were there any carry over items from the November 20, 2022 meeting. Hearing no objections, it was thus:

RESOLVED to accept the agenda.

Review/Approval of the Minutes from November 30, 2022 (Brian Downey)

After considering the content of the November 30, 2022 minutes, David Gelinas motioned to accept the minutes from the November 30, 2022 meeting. Lindsey Pinkham seconded the motion. Hearing no objections or abstentions it was thus:

RESOLVED to accept the minutes of the November 30, 2022 Maine Pilotage Commission meeting.

Election of Commission Chair

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 has officially stepped down from the commission and is not seeking a new term as Chair. 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. Prior to the meeting, Jerry Morrison nominated Carrie Norton to be elected Chair. Mr. Downey contacted Ms. Norton to apprise her of the nomination. During the meeting the nomination was discussed but a formal vote was postponed to the next meeting to allow Ms. Norton a chance to be better acquainted with the roles and demands of the Chairperson position before accepting the nomination. Hearing no objections or abstentions it was thus:

TACITLY AGREED to postpone the formal vote until the next commission meeting.

Finance

Mr. Downey reported on *Ports and Marine Accounts* which has a current balance of **\$5,168.04** which reflects both disbursements and income since November 2022. License income and insurance expenses flow through this account. The *Pilotage Training Account* currently has a balance of **\$78,641.81**. 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. In short, the Ports and Marine Account continues to lose money each year as the expenditures out paces the limited income from license fees. Regardless, the fund is generally stable and will sustain the commission for several more years. Mr. Downey suggested that the commission start to look for other sources of funding to ensure uninterrupted commission business. He also addressed the Pilot Training Fund 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 organized a meeting with Maine DEP later in March to lay the ground work to renew the MOU which will replenish the fund.

Ports & Marine Account Cash			
Cash Balance			
30 Nov 2022	Beginning Cash Balance		\$5,574.54
Incoming Cash Receipts			
	Cash Receipts	License Route Addition	\$50.00
	Total Cash		\$5,624.54
Cash Disbursements			
	Operating Expenses	Board Member Mileage	\$402.50
	Insurance	Auto Liability	\$54.00
15 Mar 2023	Ending Cash Balance		\$5,168.04
Pilotage Training Fund			
Pilotage Training Fund Balance			
30 Nov 2022	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
15 Mar 2023	Current Pilotage Training Fund Balance		\$78,641.81

New Route Applications (Brian Downey)

In December of 2022, Douglas Fournier tested and passed the written examination for a route endorsement for the waters of Fort Point to Bucksport. Mr. Downey also reminded the Commission that Gregory Smith had also recently obtained an initial State Pilotage license for the waters of Penobscot Bay during the Summer of 2022. He later successfully tested for the waters of Frenchman Bay.

Rate Adjustment Discussion (Brian Downey)

Mr. Downey summarized the November 30, 2022 Rate Meeting and highlighted the cycle of the temporary fuel Surcharge which was voted to be suspended at the Rate Meeting effective January 1, 2023.

He also briefly discussed that there were no adverse comments other than one general suggestion offered at the public meeting (which was also reiterated in a letter of November 28, 2022 (delivered before the meeting)). Mr. Downey formally responded in writing to the commenter offering that the Commission had reviewed the letter and considered his discussion points offered at the public meeting. Based on information offered during the meeting and absent any additional comments from other operators, the Commission was poised to accept the proposed rate adjustments on January 1, 2023 (pending any additional comments).

There were no other comments received, and the rate adjustments were therefore, accepted and promulgated on January 1, 2023.

Training Plan Update (Brian Downey)

Mr. Downey reviewed the current training plan highlighting that much of the commission's training was delayed due to COVID-19. Now that the pandemic is largely under control, there should be more opportunities to train pilots. Specifically, he discussed the following training topics:

- Investigator training for commission designated investigators. NTSB has closed their training facility to external students, so the highly sought NTSB investigation training is no longer available. MITAGS is offering a 2-day investigation and root cause analysis seminar May 17-18.
- 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.
- The Maine DEP MOU which facilitates training funds as an oil spill prevention measure, remains outstanding. A meeting for late-March is now organized between Chris Mayo and Maine DEP to start the MOU renewal process.

Safety – Pilot Ladders (Brian Downey/David Gelinas)

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.

Communication between the Penobscot Bay and River Pilots was initiated with the company in April of 2022 to resolve some of the boarding issues. The vessels will be returning to Maine in the coming weeks for a pre-season lay-up with purported plans to correct the boarding arrangement during lay-up. Moreover, another seasonal operator was reported to have a pilot boarding arrangement inconsistent with IMO standards. A letter from the Penobscot Bay and River Pilots was delivered to the company and the Coast Guard urging correction of the discrepancy. MSD Belfast is currently engaging with the vessel's current lay berth port to rectify the discrepancy while the vessel is in drydock. Additional anecdotal pilot ladder issues continued to be raised during this agenda item and so it was collectively decided to revisit Pilot Ladder Safety on future agendas to track the correction of these issues. It was further suggested that pilot boarding violations should be report to the Administrator of the Pilotage Commission for tracking and the Coast Guard for potential enforcement action.

Frenchman Bay Pilotage Issues & Town Ordinance (David Gelinas)

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. This measure is more stringent than the MOA which the town had negotiated with the individual cruise lines, which would have introduced daily and monthly passenger caps leading to an approximately 30% reduction in passenger volumes. 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.

Considering the significant reduction of ships calling on Bar Harbor and subsequent revenue impact, the servicing pilotage group now must consider drastic changes in their business strategy which could effect overall pilotage capacity for the region. The ordinance is being legally challenged by a separate entity citing the Commerce Clause and the Supremacy Clause of the U.S. Constitution.

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.

Opportunities for Improvement (Mike Ames)

Mike Ames discussed Opportunities for Improvement offering various operational anecdotes. Mr. Downey offered that the Commission in itself is the vehicle and appropriate body to effect pilotage improvements and that suggestions to improve are encouraged. As a result of the conversation, Mr. Downey will add an Opportunities for Improvement agenda item on future agendas to encourage the practice of continual improvement. Additionally, he will explore other means to better facilitate suggestions from the public.

Commission/License Status (Brian Downey)

- Commission Renewals
- Pinkham (October 1, 2024)
- Norton (October 1, 2024)
- Philbrook (October 1, 2024)
- Gelinis (October 7, 2019)
- Moody (August 21, 2020)
- Morrison (August 21, 2020)
- Weeks (October 21, 2021)
- Pending applications (2)

- License Renewals - None
- Upcoming Renewals
 - Gelinis July 19, 2023 (Federal only)

12. New Business/Old Business

- 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. This rule will reduce the frequency of medical certificate application submissions to the Coast Guard. **The rule maintains the requirement for pilots to complete annual physicals** and provides the Coast Guard an opportunity to review the medical examinations of pilots who may become medically unqualified between medical certificate applications; therefore, the rule does not compromise safety.

- Mike Ames sent the Commission members an e-mail on February 18, 2023 offering a list of potential agenda items. Mr. Downey responded to Mr. Ames explaining that with the regular load of Commission business, that all of the items could not be covered in a single meeting. Mr. Downey offered to summarize the list during this meeting to determine the Commission's position on how to address the items.

In summary the list included:

- Opportunities for improvement;
- Tanker escorts;
- Pilot organization vetting;
- Combining the Maine Pilotage Commission with the Portland Board of Harbor Commissioners;
- Reviewing other commissions nationally as a comparison; and
- Near misses.

Mr. Ames acknowledged the summarization and offered that these were just loose suggestions for agenda items.

Jerry Morrison suggested listing one item per meeting to assure the issues were adequately discussed.

Mr. Downey agreed but offered some preliminary thoughts on two items that *had* been discussed in the past - namely tanker escorts and the consolidation of the two Maine pilotage commissioning bodies. In both cases, those items are applied through legislation. Laden tanker escorts that are required in California, Washington, and Massachusetts are directed through state statute or regulation and is beyond the discretion of the Pilotage licensing bodies of those states. In the case of Pilotage Commission consolidation, both commissions are formed though Maine statute and is beyond the authority of the Commission itself to enact a consolidation. Acknowledging that sentiments can change, previous informal discussions between the two commissions (several years ago) indicated (at that time) that neither body had interest in consolidating. Regardless, all of the aforementioned items have merit and will be added to future commission meeting agendas as normal business permits.

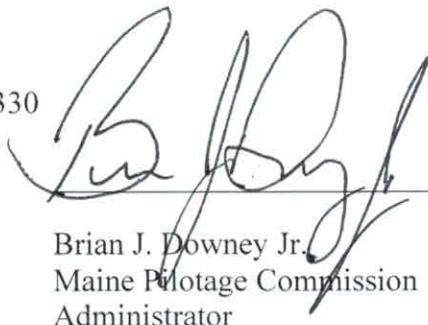
Adjourn (Brian Downey)

Mr. Downey adjourned the meeting at approximately 1:00 p.m..

Next Meeting: June 29, 2023 at 10:30 a.m. at the Maine DOT Building:

Room 227
24 Child Street
Augusta, ME 04330

Respectfully submitted:



Brian J. Downey Jr.
Maine Pilotage Commission
Administrator