

Maine Pilotage Commission

MaineDOT~ Main Conference Room

March 17, 2014

Minutes of Meeting

In compliance with MSRA 38 § 85 and in fulfillment of the Commission's duties addressed in MSRA 38 § 90, a meeting of the Maine Pilotage Commission was held on March 17, 2014 in Augusta Maine.

Call to Order:

The meeting was called to order at 1030 by the Chair of the Commission, Captain Charles Weeks.

Maine Pilotage Commission Members constituting a quorum were:

Captain Charles Weeks	– Chair of the Commission
Captain David Gelinias	– Pilot Member
Mr. Tom Dobbins	– Maritime Industry Member
Captain Shawn Moody	– Maritime Industry Member
Captain Gerald Morrison	– Pilot Member
Captain Earl Walker	– Pilot Member
Mr. Brian Downey	– Pilot Commission Administrator

Maine Pilotage Commission Interested Parties present were:

Mr. Robert Elder	– Director of Freight and Business Services (MaineDOT)
Captain Skip Strong	– Penobscot Bay and River Pilot
Captain Adam Philbrook	– Penobscot Bay and River Pilot
Captain Ryan Read	– Penobscot Bay and River Pilot
Captain Mike Ames	– Pilot (inactive) (via Conference Call)

Maine DOT Staff present were:

Ms. Kim King	– Office of Freight and Business Services (MaineDOT)
Ms. Victoria Morales	– MaineDOT Legal

Public/Guests present were:

Peter Blanchard	– Maine Department of Environmental Protection
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Agenda Item 1 – Call to Order

Captain Weeks opened the meeting at 1030, acknowledged a quorum and facilitated introductions around the room.

Captain Gelinias requested to add a discussion item to Agenda Item 11 “Other/Miscellaneous” to review the Oil Surface Fund considering the reduced crude oil imports to Portland. No other amendments were noted.

Agenda Item 2 – Approval of November 7, 2013 Commission Meeting Minutes

Hearing no objections to the content of the November 7, 2013 minutes, Mr. Dobbins motioned to approve the minutes. Captain Moody seconded the motion and it was thus:

RESOLVED to approve the minutes of the November 7, 2013 Maine Pilot Commission meeting.

Agenda Item 3 – Commission Elections

Mr. Downey explained that as 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 Walker motioned to retain Captain Weeks as the Chair of the Commission. Captain Gelinias seconded the motion and 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 4 - Pilot Training

ECDIS: Mr. Downey discussed the Electronic Chart Display Information System for Pilots (ECDISp) course conducted at Maine Maritime Academy. He explained that the course was designed to meet the American Pilot Association (APA) Guideline for ECDISp. He explained that during the development of the course he met with Maine Maritime Academy Adjunct Instructor Captain Gary Keene to review the contents of the course. During the meeting and course review, it was determined that the course met the APA standard. Mr. Downey additionally compared the course to the International Standards for Training and Watchkeeping and Certification (STCW) model. While the Maine Maritime Academy course did not completely align with all STCW elements, it was verified that the course covered pertinent pilot details which also appeared in the STCW model. Captain Walker explained that he had attended both the STCW as well as the APA course. He found the APA course to be of value to pilots. He further cautioned that pilots should not over rely on ECDIS as a navigation aid as he found

more value in RADAR as a navigation safety tool. Captain Strong also voiced that the course was valuable although there were some minor technical (computer) issues during his course that he felt were easily corrected. Captain Strong also suggested that the course include more information regarding various system layouts and panels to help gain a better appreciation for the different systems' layouts.

Investigator Course: Mr. Downey announced that the National Transportation Safety Board (NTSB) will convene a five day Marine Accident Investigation course September 22-26. A course was offered by NTSB last year but was cancelled.

Pilot Training Fund: Mr. Downey invited Mr. Peter Blanchard of the Maine Department of Environmental Protection (DEP) to discuss the status of the Memorandum of Understanding between the Maine Pilotage Commission and the Maine DEP which supports the Pilotage Commission Training Fund. Mr. Blanchard discussed that the source of the pilotage training fund is the Maine Coastal and Inland Surface Oil Clean-up Fund. The "Surface Fund" has been in decline in recent years due to a sharp decline in crude oil imports through the Portland Pipeline (using a tax per barrel system). The reduction in taxable oil through-put is causing the DEP to divest of resources to remain within budget. Regardless, Mr. Blanchard affirmed support of the Pilot Training fund as a recognized and valuable critical component to the State's prevention strategy and will continue to support the training program. He will continue to collaborate with Mr. Downey to finalize and re-issue a Memorandum of Understanding to continue funding the Maine Pilotage Commission Training Account. Captain Morrison queried whether rail cars transporting crude oil were taxed, which Mr. Blanchard affirmed, clarifying that since the Lac Megantic incident, rail transportation of crude oil has virtually been suspended in the State of Maine, so no appreciable increase in revenue has been seen. Alternatively to trans-Maine rail routes, crude oil is being diverted to New Brunswick refineries by barge or rail lines entirely within the Canadian boundary.

Agenda Item 5 - Financial

Ms. Kim King reported on *Marine Accounts* which has a current balance of \$15,360.53. License income and insurance expenses flow through this account. Total cash received since November 7, 2013 include:

- License Fee: \$375.00
- License Late Fee: \$100.00

Cash disbursements since November 7, 2013 include:

- Board Travel: \$410.36; and
- Statewide Cost Allocation Plan (STACAP): \$4.36

The *Pilotage Training Account* currently has a balance of \$55,360.53. While the Pilot Training Account Balance remains unchanged since the November 7, 2013 convening of the Pilot Commission, it is noted that six pilots attended an Electronic Chart Display Information System for Pilots course at Maine Maritime Academy March 8-9 2014, which had not yet been processed or reflected in the reflected balance.

Agenda Item 6 – Update on Proposed Rule Changes

Mr. Downey reviewed the status of the Pilotage Rules changes that were approved by the Pilotage Commission at the November 7, 2013 meeting. The Rules have been revised with appropriate documentation prepared for submission to the Secretary of State's Office.

Inactive Licenses: Mr. Downey facilitated open discussion to better understand the Commission's policy regarding Inactive Licenses. Captain Gelinis offered that the Commission had addressed the issue in the past.

Post Meeting: Mr. Downey further researched Inactive Pilots and discovered a brief 2001 policy statement on the Maine Pilotage Commission web-site under the "Policy and Updates" tab. As well, a more detailed 2001 MaineDOT memorandum was also located.

Mr. Downey will draft a policy to better detail the elements and reactivation process of an Inactive Pilot license and furnish the draft to the Commission for review.

Agenda Item 7 - Recency

Mr. Downey discussed measures to address pilot recency shortfalls and methods to achieve alternate compliance with the Pilotage Rules. He suggested that State resources at Maine Maritime Academy could be employed to help pilots meet recency on low volume routes (during planned cadet training exercises). Captain Gelinis confirmed that alternate methods using the Maine Maritime Academy tug PENTAGOET have been used in the past. Additional dialogue led by Captain Strong suggested the best method to manage low volume recency is to treat the route as inactive. When pilotage is anticipated in a low volume area where a pilot lacks recency to satisfy the Maine Pilotage Rules for an active license, the pilot should submit an alternative recency plan to the Pilotage Commission for consideration.

Post Meeting: The above suggested alternate recency policy aligns with the Inactive Pilots 2001 policy on the Maine Pilotage Commission web-page under the Policies and Updates tab.

Captain Walker motioned to task Mr. Downey to capture the discussion in a more detailed written policy, for consideration and adoption of the Commission. The motion was seconded by Captain Moody and so it was:

DIRECTED that Mr. Downey create a low volume area alternate recency policy for Maine Pilotage Commission review and consideration.

Agenda Item 8 – Jury Duty for Pilots

Mr. Downey discussed a situation in which a pilot was considered for jury duty which potentially conflicted with the pilotage schedule. The potential jury service led to concern over adequate rest and pilot coverage in the event of prolonged service as a juror. In the aforementioned case,

the pilot was not selected as a juror but the issue remains open as there are only 11 pilots to cover the State's pilotage waters (regulated by this Commission). The forum discussed options for jury excusal which included a blanket request for excuse from the Commission or the State citing the overarching public safety role that pilots play. This was determined not to be a feasible avenue. Commission attorney, Victoria Morales, offered that a justifiable and effective avenue is to develop a standard letter outlining a hardship which would be offered to a summoning court. Ms. Morales opined that hardship is justified in that there are only 11 people in the State of Maine with the unique and professional skills required to navigate large ships in State waters. The pool of staff is so small and the skill level so great, and consequences so significant that it places a hardship on the pilot, the transportation system, and public by eliminating a pilot from the narrow pool. Ms. Morales explained the burden to seek excusal remains with the prospective juror and the Commission cannot intervene other than to support the pilot with a letter outlining their unique hardship. It is intended that such a letter will be issued to support a pilot's individual request to a presiding court for excusal from jury duty. Captain Weeks suggested that Mr. Downey and Ms. Morales collaborate to draft an appropriate letter which outlines a hardship and so it was:

DIRECTED that Mr. Downey collaborate with Ms. Morales to create a standardized jury hardship letter for Maine Pilotage Commission review and consideration.

Agenda Item 9 – Reduced Traffic Areas

Mr. Downey discussed Reduced Traffic Areas and whether the Commission should continue to maintain certain routes. Captain Gelinis explained that traffic volumes may be temporary and that no routes should be suspended or eliminated and that the alternate recency discussion covered under Agenda Item 7 well addressed this issue.

Mr. Downey asked if there was a need to consider recruiting new pilots for areas with limited numbers of licensed pilots as a continuity plan. Captain Morrison felt that the pilot coverage in Eastport was adequate as there is a third inactive pilot that may be called into service as a contingency. Captain Gelinis elaborated that pilot recruiting and continuity is the responsibility of individual pilot organizations and not the Maine Pilotage Commission.

Agenda Item 10 – Case Brief

Mr. Downey briefed the forum regarding a January incident involving a moored ship in which two line handlers entered the water. During the initial investigation, it was determined that there were no injuries, no significant damage or pollution. It was further determined that the incident did not involve the navigation of the vessel and did not meet the reporting or investigation threshold of the Maine Pilotage Commission. Similarly, although reported to the

Coast Guard, there was no Coast Guard investigation of the incident beyond initial data collection. The incident was further investigated by Eastport Port Authority for examination and correction of any Port Authority workplace safety issues. The case was closed with no further action.

Agenda Item 11 – Other / Miscellaneous

Expiring Commissions: Captain Weeks, Captain Moody, and Captain Morrison have all submitted their Commission packages and are awaiting confirmation from the Governor's Office.

Ad-Hoc Pilot License Status Data Base: Mr. Downey added discussion of the Pilot License Status Data base project which is a carry-over item from the November 7, 2013 meeting. After further discussion among the Commission, it was determined that the cost outweighed the benefit of the system and to suspend the project with ImageWorks. Mr. Dobbins suggested that there may be Software available that has the same capability. Mr. Downey will research existing Software options and continue managing the pilot data using the legacy system.

Ad-Hoc Pilot Physicals: An ad-hoc item regarding pilot physicals and the content of Pilot Physical data was raised by Captain Strong. The Pilotage Rules Part A Section 3 requires the submission of the Coast Guard Merchant Mariner Physical Examination Form (or its equivalent) annually for all pilots. There was discussion among the group that if the Coast Guard approves the pilot's annual physical then the Maine Pilotage Commission should recognize a letter from the Coast Guard accepting the physical as proof of compliance with the Maine Pilotage Commission Rules. The forum collectively supported a rule revision to permit a Coast Guard letter attesting to the pilot's physical competence in lieu of the full physical examination form. The change in Rule will better protect pilot privacy (of medical records) and will achieve an equal level of safety oversight. There was also confusion over whether the Federal Regulation regarding pilotage physicals was expanded to two years. Mr. Downey will research this topic.

The *Action Items* previously discussed within these Minutes were reviewed to ensure alignment of Commission expectations. Mr. Downey will:

- Draft a new Inactive Pilot Policy (Agenda Item 6)
- Draft a new Pilot Recency Policy (Agenda Item 7)
- Draft a Juror Hardship Justification letter with Ms. Morales (Agenda Item 8)
- Revise the Draft Rule Revision to include acceptance of a Coast Guard attestation letter for Pilot Physicals in Part A, Section 3 of the Pilotage Rules (Agenda Item 11).
- Research the validity period of Federal Pilot Physicals (Agenda Item 11).

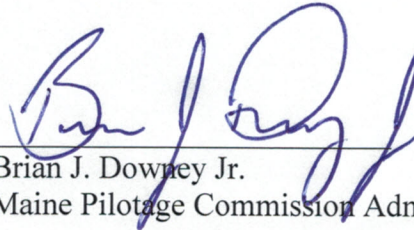
Adjourned:

The meeting was adjourned by the Chair of the Commission, Captain Charles Weeks at 1215.

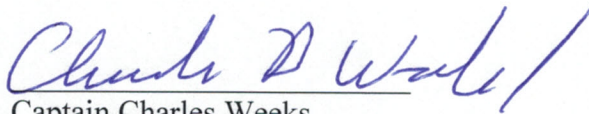
Next Meeting:

June 18, 2014, 1030 MaineDOT building.

Respectfully submitted:



Brian J. Downey Jr.
Maine Pilotage Commission Administrator



Captain Charles Weeks
Chair, Maine Pilotage Commission