



# Saint Lawrence Seaway Development Corporation

## Advisory Board Meeting Minutes

Wednesday, December 14, 2016 (2:00 p.m.)

Meeting Held Via Teleconference

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### **PRESENT**

Betty Sutton (Administrator), David McMillan (Advisory Board Chairperson), William Mielke (Advisory Board Member), Wenona Singel (Advisory Board Member), Arthur Sulzer (Advisory Board Member), Nancy Alcalde (Director of Congressional and Public Relations), Chris Guimond (Director of Lock Operations and Marine Services), Carrie Lavigne (Chief Counsel), Tom Lavigne (Associate Administrator), Craig Middlebrook (Deputy Administrator), Kevin O'Malley (Director of Budget and Economic Development), Jeff Scharf (Director of Engineering and Maintenance), Adam Schlicht (Great Lakes Regional Representative), Nancy Scott (Chief Financial Officer), Wayne Williams (Acting Chief of Staff), and Charles Wipperfurth (Deputy Chief of Staff) were present. Chelsea Champlin (Program Support Specialist) was also in attendance. Mr. McMillan chaired the meeting and Ms. Champlin recorded the minutes.

### **I. CALL TO ORDER**

In his capacity as Board Chairperson, David McMillan welcomed all participants to the Advisory Board meeting and, noting the presence of quorum, called the meeting to order at 2:04 p.m.

### **II. APPROVAL OF THE MINUTES**

On a motion by Chairman McMillan and seconded by Mr. Mielke, the Board approved the minutes for the September 30, 2016 Advisory Board meeting. Without objection, the motion passed unanimously, and the September 2016 meeting minutes of the SLSDC Advisory Board were approved.

### **III. ADMINISTRATOR'S REPORT**

Administrator Sutton provided a quarterly update to the Advisory Board membership, including a general overview of SLSDC activities following the previous Advisory Board meeting:

- Administrator Sutton started by announcing the approval of the International Joint Commission's (IJC) Plan 2014 for Lake Ontario and the St. Lawrence River. This plan will help ensure safe commercial navigation as well as protect the environment in accordance with the order of precedence specified in the Boundary Waters Treaty.
- She thanked SLSDC staff members Craig Middlebrook, Carrie Lavigne, and Tom Lavigne for their perseverance and active participation, as they were key in representing the SLSDC throughout the Plan 2014 review process. She went on to commend the



collaboration between the U.S. and Canadian governments, the IJC, and other stakeholders.

- Staff from the SLSDC attended annual industry meetings in Montreal as part of the Montreal “Grunt Club”, which included annual binational stakeholder appreciation events, including the Highway H<sub>2</sub>O reception. This reception saw the highest turnout to date with nearly 250 stakeholders present. While in the North Country, Administrator Sutton also visited Massena for internal meetings, to share her thanks, and to say farewell given her expected departure ahead of the new Presidential administration.
- The staff in Washington and Cleveland have been working with the Port of Monroe (Mich.) on the potential container export movement of American automobiles to Europe. The hope is to diversify the cargo base, including heavy lift and container cargoes, and to foster proactive engagement by the U.S. Customs and Border Protection (CBP), including the Detroit Field Office, to export goods.
- The White House Detroit Federal Working Group (DFWG) has engaged the SLSDC for assistance in creating new maritime opportunities specifically to help the city, produce jobs, and increase export trade. The SLSDC briefed the Working Group in late October, highlighting untapped resources at the Port of Detroit, the unused capacity for commercial trade on the Seaway System, and Congressional interest in expanding the SLSDC’s authority. Finally, Administrator Sutton and Deputy Administrator Middlebrook attended the latest DFWG meeting last week in Washington, D.C., and are scheduled to participate in a follow-up meeting with Mayor Duggan in Detroit in early January.
- Administrator Sutton provided a 2016 navigation season update, noting a season-long reduction of 5 percent compared to 2015 at 30.3 million metric tons. However, she highlighted a positive trend in export U.S. and Canadian grain, while mentioning an expected busy end to the 2016 navigation season. Total U.S. grain exports are up 8 percent, on pace to eclipse its five-year average. Lastly, she noted the movement of grain as one of the most tangible components of this region’s international trade pattern.
- The SLSDC received its 53<sup>rd</sup> consecutive clean financial audit, despite an atypical period of scrutiny by the DOT Office of Inspector General (OIG), which particularly focused on SLSDC management of funds related to the Seaway International Bridge. Though no recommended changes were ultimately identified, the OIG made numerous attempts to make a case for a material weakness. Ultimately, no material weakness was identified, and the Administrator provided many thanks to Kevin O’Malley, Nancy Scott, and all those involved with the audit.
- SLSDC career staff, led by Deputy Administrator Middlebrook and Mr. O’Malley, are working with the Trump Administration DOT transition team to bring them “up to speed,” on what we do and why we do it.
- Administrator Sutton provided closing remarks to share her appreciation, heartfelt thanks, and sincerest goodbye to the members of the Board for their public service to the SLSDC and to the country. She hopes their paths continue to intersect in the future.
- Chairman McMillian, Mr. Sulzer, Ms. Singel, and Mr. Mielke all expressed their appreciation with remarks to thank Administrator Sutton for her service.



#### IV. QUARTERLY UPDATES

- Mr. Guimond presented his report on Lock Operations and Marine Services. Total completed transits (1,790) and Enhanced Seaway Inspections (240) are both higher this year than at this point last year. In terms of performance, he reported 99.5 percent system availability and 99.9 percent lock availability as of November 27, 2016. The Ballast Inspection Program year-to-date has tested 6,995 tanks, resulting in issuing 3.5 percent of international vessels a Letter of Retention; 56 percent of those were for low salinity. The 2016 Customer Survey of Agents and Owners was launched in September. Customer satisfaction is high and results were positive in general, however, they were slightly lower than the 2012 results. Upgrades to LED lights have led to a reduction in service calls and all-season buoys will continue to be tested through the winter ice during the 2017 non-navigation season.
- Mr. O'Malley reported on budget and financial management. Information pertaining to the FY 2017 budget is still not definitive, but a new continuing resolution (CR) through April 28, 2017 was finalized just before midnight on December 9, 2016. The significant cut seen in FY 2016 will linger on; the current CR requires the SLSDC to utilize the previous enacted level calculated against the daily burn rate times the number of days (210 days). This will impact us in a number of ways, but most significantly with the Asset Renewal Program (ARP) projects. If this rate continues throughout the entirety of the FY 2017, the SLSDC will likely be unable to fund two major ARP projects (e.g. the next phase in the *Robinson Bay* tugboat replacement as well as the deployment of hands-free mooring at Snell Lock). The SLSDC submitted these issues as an anomaly for inclusion in the CR, but though the SLSDC's submission failed to garner significant high-level attention within the executive branch.
- As for the FY 2018 budget, Mr. O'Malley remarked that "anything can happen in the next 6-9 months". The SLSDC prepared a current services budget for FY 2018 that creates a "flat" picture for the incoming officials; a budgetary outlook which indicates the minimum levels which can be used to run federal agencies in 2018 at the FY 2016 levels (e.g. accounting for pay, rent, and inflation increases). In light of these exercises, the SLSDC is anticipating the most challenging and interesting budget to-date.
- Mr. O'Malley and Mr. Schlicht provided a joint report on Trade and Economic Development. Mr. O'Malley introduced the Administrator's memo to Vinn White, Acting Assistant Secretary at USDOT, which explains the significant export potential at the Port of Monroe. This port is facing issues common across the Great Lakes region; port leadership has struggled to develop a robust working relationship with CBP officials in Detroit while seeking to develop new or expanded container export opportunities. This is of significant consequence as shipping companies are increasingly looking to the Seaway System as an opportunity for the movement of containerized cargoes. As at the Port of Monroe, there has been pressure from the ports on state and federal officials to encourage the CBP to more proactively, effectively, and collaboratively clear container exports. As Administrator Sutton has stressed, diversification of Seaway cargoes is what the SLSDC has been working towards and continued partnership with CBP is critical to ensure that the momentum we have built continues to be fully realized.



- Mr. Sulzer commented that it is “mind-boggling” that the CBP can’t handle containers out of the Port of Monroe considering the vast amount of cargo they deal with on the coastal major ports.
  - Administrator Sutton agreed and added that it is “completely unacceptable” that the Great Lakes region is being denied the kind of opportunities for service that other parts of the country enjoy. All Great Lakes ports, the Administrator stressed, should continue to have an expectation that CBP will provide a service to this part of the country.
  - Mr. Sulzer offered to reach out to officials in Pennsylvania to support this effort.
- Mr. Schlicht detailed a recent Highway H<sub>2</sub>O trade mission to Houston, Texas which included three key events/initiatives specifically highlighting Great Lakes shipping: 1) a series of guest lectures and informational panel sessions pertaining to the Great Lakes shipping and Houston freight forwarding markets; 2) a featured panel at Breakbulk Americas on Great Lakes issues (e.g. a first-time invite to the SLSDC by the organizing committee); and 3) a stakeholder networking event and welcome reception that proved to be the highest attended event ever hosted by the SLSDC and Canadian St. Lawrence Seaway Management Corporation (SLSMC) under Highway H<sub>2</sub>O. The Highway H<sub>2</sub>O Annual Conference in Toronto was also the most highly attended conference the SLSDC and SLSMC have hosted. One notable outcome was the recruitment of the Port of Antwerp as a first time international conference sponsor by the SLSDC’s Great Lakes Regional Representative. In the coming quarter, there will be a stakeholder networking reception, policy meetings, and a tour of the Great Lakes during the winter maintenance period for strategic planning on the 2017 shipping season.
  - Ms. Lavigne provided a legal report. Due to the IJC’s Plan 2014 being approved and publicly released on December 8, it was not yet available for print as a hard copy for inclusion in the Advisory Board briefing book. The new Plan is a “win-win” situation, with new environmental measures that allow for a more natural flow compared to the earlier plan. There are three components that were key to DOT’s support and approval: 1) the Plan was still implemented in accordance with the Boundary Waters Treaty of 1909 and puts commercial navigation second in priority of use; 2) The IJC cannot make changes to the Plan (e.g. the order of approval or the trigger levels) without consulting with both the United States and Canada; and 3) the SLSDC has a seat on the Board of Control. The Plan goes into effect January 1, 2017.
  - Ms. Lavigne went on to note that SLSDC and SLSMC are in the process of revising annual Seaway Rules and Regulations, and Seaway stakeholders can expect to review the binational rulemaking update (e.g. “Seaway Handbook”) in the *Federal Register* in January 2017. Lastly, she reported about the Seaway International Bridge Corporation’s board meeting with Grand Chief Abram Benedict of the Mohawk Council of Akwesasne. Chief Benedict made a presentation for the board for the first time, explaining the governance issues he faces and how they relate to bridge operations. Feedback from all participants were positive, and a commitment to ongoing and open communication was reinforced.
  - Mr. Lavigne provided an update on the Asset Renewal Program (ARP). Under the current budgetary CR, ARP projects are definitely expected to be impacted. Despite these



budgetary constraints, the SLSDC is pressing ahead with other maintenance and modernization priorities, as possible. A contractor from the 2016 non-navigation, maintenance season has agreed to return and install the correct rails in 2017. The firm is under new management, and the SLSDC expects to see an improvement in service this winter. The designs for the installation of the hands-free mooring project is nearing completion, and the ice flushing system is being completed at Snell Lock. The contract for the *Robinson Bay* tugboat has been awarded, but the Small Business Administration (SBA) is resolving a protest with a company that was not awarded the contract. The SLSDC is in a “holding pattern” until these inquiries are fully resolved. Vessel self-spotting is currently on hold, despite some positive moves including a contractor visiting the SLSDC infrastructure for testing of the technology. The Bailey Bridge (e.g. which is temporarily spans over Snell lock during the winter) is being rehabilitated though deployment has been delayed. All-weather Buoys are being installed and adjusted for this winter.

- Deputy Administrator Middlebrook pointed out all-weather buoy implementation lessens the need for double pilotage during winterized shipping conditions.
- Deputy Administrator Middlebrook provided a report on environmental policy and ballast water. He first announced that the U.S. Coast Guard reached a milestone on December 2, 2016 by issuing certification for a type-approved ballast water treatment system, the first since the regulations were enacted in 2012. The approval is expected to be a bellwether for ongoing approval activity. He then explained that the International Maritime Organization (IMO) Convention was ratified on September 8, 2016, including Canada as a signatory. Mr. Middlebrook noted that the United States, while not a signatory, therefore is a participant in the regulatory harmonization process specific to the Great Lakes. Final implementing regulations must be submitted by September 8, 2017, though Transport Canada is currently expected to miss the deadline.
- The current iteration of the Vessel Incidental Discharge Act (VIDA) includes shared regulatory authority for ballast water management, though the U.S. Coast Guard assumes regulatory control while including the Environmental Protection Agency (EPA) as consultative. VIDA, however, limit individual states’ regulatory power specific to ballast water. This bill was not successfully attached to the National Defense Authorization Act. The House has been supportive of this bill, and the fiercest opponent, Senator Barbara Boxer (D-CA), is retiring at the end of this Congress.
- Finally, reports from the media in early November stated that a “new, non-native species” was discovered at the western end of Lake Erie called *Thermocyclops crassus*. While it is not indigenous, it was found in Lake Champlain nearly 25 years ago, a body of water that does not have a commercial connection to the St. Lawrence River or the Great Lakes. The SLSDC has encouraged patience, noting that the cause is likely not ballast water from international vessels, as it is more likely from recreational boaters or fisherman.
- Ms. Alcalde reported on Congressional Affairs and Public Relations, noting a high amount of Congressional activity over the last week. Congress passed the renamed Water Infrastructure Improvement (WIIN) Act, which provides aid to Flint, Mich., and includes language about the ongoing California drought. It also stipulates that Great Lakes ports



will receive a greater share from the Harbor Maintenance Trust Fund. The Great Lakes Restoration Initiative was also included in WIIN, including funding at \$300 million. She concurred with Deputy Administrator Middlebrook's comments on VIDA and promised to provide the Advisory Board with ongoing updates. Similarly, she referred back to Mr. O'Malley's comments regarding FY 2017 appropriations process.

- As for government relations, Ms. Alcalde included a letter from nine Great Lakes Senators (Gary Peters, Al Franken, Amy Klobuchar, Joe Donnelly, Richard Durbin, Mark Kirk, Debbie Stabenow, Tammy Baldwin, and Robert Casey, Jr.) to Transportation Secretary Anthony Foxx indicating support for the Great Lakes Governors and Premiers' Maritime Strategy. She then highlighted changes from the 2016 congressional election including expected changes to relevant transportation committee members and Great Lakes legislators.
- In discussing public relations, Ms. Alcalde noted that Associate Administrator Tom Lavigne gave a great Time Warner Cable news interview about the importance of the Seaway locks and how the SLSDC operations positively impact the local and regional economy. The Great Lakes Seaway Partnership continues to release monthly press releases during the navigation season. Laura Blades wrote an Op-Ed to respond to media articles on *Thermocyclops crassus*, the species detected in Lake Erie. The Alaska Dispatch is interested in taking photos of our locks for an article on Arctic shipping and how the binational operations of the St. Lawrence Seaway can be a model for governance. On social media, we have over 1,300 "likes" on Facebook, the Eisenhower Lock page has over 1,000 "likes." The Seaway binational page has seen an expected seasonal decrease in web activity. The SLSDC plans to re-evaluate our social media efforts with a year-end assessment of public engagement.

## V. OLD AND NEW BUSINESS

Administrator Sutton reiterated her feelings on what a privilege it has been to work with the SLSDC's staff in Massena, Washington, and Cleveland. She looks forward to exciting new things and offered assistance to employees and the Advisory Board members throughout the future.

Chairman McMillan noted he was sad to not see Administrator Sutton in person to say goodbye, but recognizes it as part of her "low-cost, high-efficiency" model. He went on to say that she would surely leave a rich legacy behind her.

Ms. Singel, Mr. Sulzer, and Mr. Mielke also expressed their thanks and well wishes to the Administrator.

Mr. Mielke made a motion to include on the record that the Board appreciates all the efforts of Administrator Sutton. The board voted on the motion and approved it unanimously.

Deputy Administrator Middlebrook mentioned that some SLSDC staff will be in Cleveland, Ohio on February 14-15 for the Great Lakes Waterways Conference. He added that the SLSDC will consider hosting the next Advisory Board meeting in person in Cleveland in



February. However, he reminded staff and Board members of the necessity to limit travel while operating under the current budgetary constraints of a CR.

## **VI. CLOSING DISCUSSION AND ADJOURNMENT**

The meeting was adjourned at 3:38 p.m. with a motion to close from Chairman McMillan as seconded by Ms. Singel.

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