

BOARD OF COMMISSIONERS OF PILOTS OF THE STATE OF NEW YORK
Minutes of the Meeting of 12 July 2022

The following Commissioners were present:

James Mercante, President
Lucienne Bulow,
Richard Hendrick
Joseph Ahlstrom
William Rowland
Jeffrey Loechner

UPON MOTION DULY MADE, SECONDED AND UNANIMOUSLY VOTED UPON, (EXCEPT AS OTHERWISE MINUTED) IN A PUBLIC MEETING, WHICH CONVENED AT 10:30 A.M., THE BOARD CONDUCTED THE FOLLOWING BUSINESS:

1. The Acting President called the meeting to order at 10:30 a.m.
2. Appearances in Public Session: None.
3. The Draft Minutes of the 5 July 2022 meeting were reviewed and approved.
4. Adjournment to Executive Session for personnel, legal advice of counsel, medical, and/or official investigative matters, as necessary:

Pilot sick leave/other leave.
Apprentice ship rides – reported discrepancies by the SHPA.
Litigation arising out of the MAERSK KENSINGTON marine accident.

5. Return to Public Session from Executive Session.
6. Renewed, for a period of one year (unless otherwise noted), the following New York State pilot license(s) following a personal interview and review of work performance data, training, and medical/health records:

John DeCruz (FBSHP) – For Continuity Only

7. Other Pilot/Personnel Matters: Continued on the docket.
8. Sandy Hook Pilots Association:
 - 8a. New York Sandy Hook Pilots Association President Captain John DeCruz and SHPA Operations Director Chris Maglin appeared to discuss pilotage issues including the apprentice program and the proposed permanent captain on the Pilot Boat NEW YORK.
 - 8b. Apprentice Selection Committee: At the 15 February 2022 meeting, the Board appointed Executive Director Garger as Board representative. At subsequent meetings, the Board has been updated on the status of the selection process. Continued on the docket.
 - 8c. Pilotage rate legislation: At the 15 February 2022 meeting, the Board reviewed legislation introduced in the New York State Legislature. At subsequent meetings, the Board was updated on the status of the legislation. At the 7 June 2022 meeting, the Board was advised that the legislation passed both houses of the New York State Legislature. Continued on the docket.
 - 8d. At the 27 October 2020 meeting, the SHPA advised the Board that it would be commencing a shipboard pilot ladder training program for apprentices and pilots at a climbing facility in Northvale, New Jersey. The Board has continued to be updated on the training sessions by the SHPA and has also reviewed comments that have been submitted by apprentices regarding the training sessions. The minutes of the 15 March 2022 meeting on this issue are incorporated herein by reference. Continued on the docket.

8e. State Licensed Pilot Security Training and Communications/FEMA Port Security Grants: At the 10 December 2019 meeting, the Board granted a Training and Education expenditure to the SHPA to defray the cost for development of a pilot security training and communications course with the assistance of the Maritime Institute of Technology and Graduate Studies (MITAGS). Pilots began attending training sessions on 10 February 2020. The Board was subsequently informed that the training sessions were suspended due to the COVID-19 emergency.

On 1 July 2020, the Board was advised that its 2020 Port Security Grant (PSG) application to provide state licensed pilots with advanced security training was approved. At the 6 October 2020 meeting and subsequent meetings, the Board reviewed the current MITAGS security training curriculum and discussed additional steps in the reimplementation of the security training program. At the 20 July 2021 meeting, the Board was informed that its 2021 Grant application to provide CCTV cameras for the Sandy Hook Pilot Association's new pilot vessel NEW YORK was approved. At the 2 November 2021 meeting, the Board reviewed the invoice from GMT Electronics for the installation of the CCTV cameras on the P/B NEW YORK. At the 1 March 2022 meeting, the Board was advised that training sessions would recommence at MITAGS in September 2022. At the 10 May 2022 meeting, the Board was advised that Cadet 360 would begin work on its part of the training. At the 17 May 2022 meeting, the Board was advised that the Notice of Funding for the 2022 Port Security Grant has been published. The Minutes of the 30 June 2020 and 28 September 2021 meeting on these issues are incorporated herein by reference. Continued on the docket.

9. Hudson River Pilots Association:

9a. The Board was advised of the M/V ARUNA BERK's delayed docking at Port of Albany Ventures.

9b. Pilotage rate legislation: At the 17 May 2022 meeting, the Board was advised that pilotage rate legislation was introduced in the New York State Legislature and that Julie Barney of the NY State Assembly staff had contacted Executive Director Garger regarding the legislation. At the 7 June 2022 meeting, the Board was advised that the legislation passed both houses of the New York State Legislature. Continued on the docket.

9c. Following the formation of the Hudson River Safety and Navigation Operations Committee (HR Committee) to address issues raised in the Port and Waterways Safety Assessment study of the Hudson River, the Board has been regularly briefed on the HR Committees activities, including its review of legislation regarding the establishment of anchorages on the Hudson River. At the 12 January 2021 meeting, the Board was advised that the United States Coast Guard Authorization Act of 2020 was passed by Congress and contained provisions that address the establishment of anchorages on the Hudson River and circumstances when vessels can be anchored outside established anchorage grounds. Commissioner Hendrick has provided regular updates regarding the activities of the HR Committee. Continued on the docket.

10. Long Island Sound/Block Island Sound Pilotage:

10a. Pilotage Requirements: The Board has reviewed and responded to several inquiries regarding New York State pilotage requirements for survey vessels operating in Long Island Sound and Block Island Sound. The most recent inquiry was by survey vessel operator MMT Sweden regarding the GO ELECTRA, which the Board responded to in a letter dated 9 September 2021. At the 15 February 2022 meeting and subsequent meetings, the Board has continued to review a request by the Northeast Marine Pilots Association to review pilotage requirements for a heavy lift vessel operated by DEME Offshore. The minutes of the 25 January 2022 Board Meeting are incorporated herein by reference. Continued on the docket.

10b. Pilotage rate legislation: At the 26 April 2022 meeting, the Board was advised of pilotage rate legislation that was introduced in the New York State Legislature. At the 10 May 2022 meeting, the Board reviewed correspondence with Julie Barney of the NY State Assembly staff. At the 7 June 2022 meeting, the Board was advised that the legislation passed both houses of the New York State Legislature. Continued on the docket.

10c. Captain Russell Stuebe's LIS/BIS licensing exam: Continued on the docket.

11. The New York State pilot associations utilize Pilot Boarding Deficiency Report forms when a deficiency is found. The following reports from the third quarter of 2022 have been provided to and reviewed by the Board (prior reports on file):

M/V ZHONG GU SHAN DONG (Chinese Registered Container Ship, Built 2007) 9 July 2022: New York SHP Aldean Codling reported a non-compliant "trap door" arrangement.

12. REPORT(S) OF MARINE ACCIDENTS/INCIDENTS UNDER INVESTIGATION:

12a. M/V OLEANDER (Marshall Island Registered Containership, Built 2019): 28 April 2022. Sandy Hook Pilot Andrew Parkis, accompanied by Apprentice Jesse Wynn, assumed the conn of the M/V OLEANDER at approximately 1515 on 28 April 2022, east of the Ambrose Sea Buoy, for an inbound passage to Berth 58 Port Elizabeth. Metro Docking Pilot Captain Robert Flannery assumed the conn of the vessel at approximately 1640 in New York Harbor between buoys 26 and 28 buoys. While making the final approach to the dock, the vessel's stern veered towards the dock and made impact. Minor damage to the hull occurred. Drug and alcohol tests were administered with negative results with the exception of Apprentice Wynn's drug test which was canceled due to a specimen lost in transit. The Coast Guard cleared the vessel to sail. Commissioner Mercante is recused. At the 21 June 2022 meeting, the Board interviewed Captain Parkis. No violation by the New York Sandy Hook Pilot of the New York Navigation Law or the New York Codes, Rules, and Regulations. No pollution or personal injury. At today's meeting, the Board voted to close the case.

12b. M/V EAGLE TURIN (Singapore Registered Tanker, Built 2008): 5 August 2020. This incident involves the tragic fatality of FBSHP Timothy Murray resulting from a fall off a pilot ladder and onto the Pilot Launch AMERICA while boarding the M/V EAGLE TURIN at approximately 2230 upon its arrival at Ambrose Pilot Station. The P/L AMERICA then immediately proceeded back to the Pilot Boat NEW JERSEY (a three-minute transit) to pick up medical supplies, a stokes litter, and crew with paramedic training before departing for Staten Island. The U.S. Coast Guard, New York City Fire Department, and New York City Police Department were all notified. Crew personnel administered CPR and used the AED unit while proceeding to Staten Island. New York City Police Department Personnel were waiting at the Sandy Hook Pilot Base where Captain Murray was transferred to an ambulance and taken to Staten Island University Hospital.

After the incident, the EAGLE TURIN proceeded to anchor at the direction of the U.S. Coast Guard. On the morning of 6 August 2020, FBSHP Kevin Walsh piloted the vessel to Stapleton Anchorage where a further investigation ensued with the U.S. Coast Guard, SHPA, and Executive Director Garger. The Board has been designated as a Party in Interest by the U.S. Coast Guard. As part of the Board's ongoing investigation, Commissioner Ahlstrom and Executive Director Garger interviewed Captain Kevin Walsh on 17 February 2021 regarding his pilotage of the EAGLE TURIN on 6 August 2020. At the 7 December 2021 meeting, the Board discussed the meeting with the Coast Guard on 3 December 2021, attended by Commissioners Ahlstrom and Rowland and Executive Director Garger, to review the Coast Guard's factual findings. Continued on the docket.

12c. M/V MAERSK KENSINGTON (United States Registered Containership, Built 2007): 30 December 2019. Fatality. FBSHP Dennis Sherwood sustained fatal injuries after falling from the ship's pilot ladder onto the Pilot Launch PHANTOM while attempting to board the ship at approximately 0430 at the Ambrose pilot station. The USCG was notified. At 0630, FBSHP Edward Ireland boarded the M/V MAERSK KENSINGTON and brought it to its berth in Port Elizabeth. After the vessel docked, the Board dispatched Commissioner Ahlstrom to the vessel to attend the U.S. Coast Guard casualty investigation and interviews of the ship's crew.

On 3 January 2020, the Board was designated as a Party in Interest by the U.S. Coast Guard and continued to participate in the investigation. On 14 January 2020, a Board representative attended Coast Guard interviews of the crew of the Pilot Launch PHANTOM that transported Captain Sherwood to the MAERSK KENSINGTON. Executive Director Garger attended the U.S. Coast Guard inspection of the MAERSK KENSINGTON on 17 January 2020 while the vessel was docked in Port Elizabeth. At the 28 July 2020 meeting, the Board received a report on the review of the MAERSK KENSINGTON Voyage Data Recorder at U.S. Coast Guard Sector New York. The Board issued its Findings, Opinions, and

Recommendations on 11 September 2020. The Board issued an Addendum to its Report on 13 November 2020, which included the American Pilot Association's February 12, 2020 letter to State Pilotage Authorities regarding pilot safety and the U.S. Coast Guard's Marine Information Safety Bulletin dated 5 November 2020 addressing trapdoor pilot ladder configurations. At the 22 February 2022 meeting, the Board was advised that a document subpoena was served on the Board by SHPA's counsel in connection with litigation arising out of this matter. The response to SHPA's subpoena was issued on 30 March 2022. At subsequent meetings, the Board discussed the document subpoena and additional discovery demands served on the Board. The minutes of the 13 April 2021 meeting on this marine accident are incorporated herein by reference. Continued on the docket.

13. NEW YORK PILOTAGE WATER ISSUES:

13a. The Board has previously reviewed cruise ship pier allisions in the Port of New York/New Jersey and elsewhere. The Board has also reviewed 46 U.S.C. Section 8501 regarding the coordination of federal and state law requirements with respect to pilotage of cruise ships when the master docks the vessel and has noted incidents in Alaska where cruise ships were docked by the ship's master with a compulsory state pilot aboard. In light of the foregoing, the Board recommended that the SHPA work with cruise lines calling at the Port of New York to develop a joint training program that would improve communications between state licensed pilots and cruise ship masters. At the 30 March 2021 meeting, the Board discussed the status of the return of cruise ships to New York/New Jersey with SHP Thomas Walsh. At the 6 April 2021 meeting, the Board discussed the Manhattan Cruise Terminal operation. At the 17 August 2021 meeting, the Board was advised that the OASIS OF THE SEAS would be arriving in the Port of NY/NJ on 18 August 2021, which was the first passenger ship to arrive since sailing was halted due to the COVID pandemic. Continued on the docket.

13b. The Board has previously advised the Army Corps of Engineers New York District (ACOE) of its concerns with the lack of visibility of large, unlit mooring buoys, especially during periods of darkness, located within certain designated federal anchorages in New York Harbor. At the 12 January 2021 meeting, the Board was advised that the mooring buoy issue was not addressed in the ACOE Anchorage Study of New York and New Jersey anchorages. Continued on the docket.

14. Pilotage of Foreign Flag Yachts/Recreational Vessels: Legislation enacted in 2020 amended the New York Navigation Law by exempting recreational vessels of less than 200 feet overall in length from compulsory state pilotage at the Board's discretion. At the 1 June 2021 meeting, the Board discussed the requirements relative to yachts entering LIS/BIS waters. Continued on the docket.

15. In view of several ship pilot ladder boarding accidents involving both New York and New Jersey State Pilots in the Port of New York, the Board of Commissioners formed a special Pilot Transfer Subcommittee. The Subcommittee consists of the Board President (Mercante), Executive Director (Garger), and members of the Board (Ahlstrom and Rowland). At the 22 February 2022 meeting, the Board reviewed the revised International Chamber of Shipping Industry Guidance on Pilot Transfer Arrangements. The minutes of the 21 December 2021 Board Meeting are incorporated herein by reference. Continued on the docket.

15a. In August 2020, the New Jersey Maritime Pilot and Docking Commission formed a Pilot Safety Committee to evaluate pilot transfer arrangements, PPE gear, and pilot fitness. The New York Board participated on that Committee. The New Jersey Committee issued its report on 6 November 2020. Continued on the docket.

16. JCOPE: At the 31 May 2022 meeting, the Board discussed the 27 May 2022 letter received from JCOPE regarding a technology systems security breach. At the 14 June 2022 meeting, the Board was advised that under the Ethics Reform Act of 2022 JCOPE will be replaced with the Commission on Ethics and Lobbying in Government. Continued on the docket.

17. 2021 Annual Report: At the 28 June 2022 meeting, the Board reviewed and revised the draft report. Continued on the docket.

18. At the 15 February 2022 meeting, the Board noted the proposed legislation regarding New York State Commissions. At the 7 June 2022 meeting, the Board was advised that the legislation passed both

houses of the New York State Legislature. Continued on the docket.

19. At the 15 February 2022 meeting, the Board discussed notification received from 17 Battery Place regarding a possible office relocation. At subsequent meetings, the Board has been updated on the status of the relocation. At the 28 June 2022 meeting, the Board discussed the real estate broker agreement. Continued on the docket.

20. Legislation was reintroduced in the New York State legislature during the 2021-2022 legislative session addressing penalties for the operation of boats and vessels while under the influence of alcohol or drugs. At the 6 July 2021 meeting, the Board was advised that the legislation had passed in the State Senate. At the 7 June 2022 meeting, the Board was advised that the legislation did not pass in the State Assembly during the current legislative session. Continued on the docket.

21. APA Convention 16-22 October 2022: Continued on the docket.

22. In August 2021, the Board published a booklet containing a report originally drafted by retired Executive Director Robert Pouch concerning his personal experiences following the 9-11 terrorist attack on the World Trade Center. The booklet was widely disseminated to the maritime community as a tribute to those that lost their lives and those that provided aid and assistance during the response and recovery efforts.

23. There being no further business to conduct, or public comment, the Board meeting was adjourned at 12:06 p.m.

A handwritten signature in cursive script, appearing to read "Andrew Garger".

Andrew Garger
Secretary