

BOARD OF COMMISSIONERS OF PILOTS OF THE STATE OF NEW YORK
Minutes of the Meeting of 22 November 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 President called the meeting to order at 10:30 a.m.
2. Appearances in Public Session: None.
3. The Draft Minutes of the 15 November 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:

Stephen Feminella – Deputy SHP (Increase to Grade 3) and FBLIS/BIS
Joseph Reinbold – Apprentice Appearance

7. Other Pilot/Personnel Matters: Continued on the docket.
8. Sandy Hook Pilots Association:
 - 8a. At the 9 August 2022 meeting, the Board reviewed correspondence received from the SHPA regarding the proposed North Atlantic Right Whale Seasonal Speed Zones regulations. At the 4 October 2022 meeting, the Board was advised that the deadline for submitting comments regarding the proposed regulations was extended until 31 October 2022. At the 8 November 2022 meeting, the Board noted comments submitted by the SHPA. Continued on the docket.
 - 8b. Apprentice Selection Committee: At the 15 February 2022 meeting, the Board appointed Executive Director Garger as Board representative. At subsequent meetings, the Board was updated on the status of the selection process. At the 27 September 2022 meeting, the Board ratified the list of apprentice candidates presented by the Apprentice Selection Committee. At the 4 October 2022 meeting, the Board noted the letter to Committee Chairman Captain Ronald Perry ratifying the selections. At the 11 October 2022 meeting, the Board approved the SHPA's request to activate Roy Shaw on 1 November 2022 as a New York apprentice. At the 25 October 2022 meeting, the Board discussed Eric Schlegel's voluntary withdrawal from the list of apprentice candidates. At the 8 November 2022 meeting, the Board discussed the apprentice candidate selection process used by various pilot associations. Continued on the docket.
 - 8c. At the 15 November 2022 meeting, the Board discussed Apprentice Healy's request to sit for her state pilot's license. Continued on the docket.

8d. At the 25 October 2022 meeting, the Board discussed the status of the plan to assign a permanent captain to the Pilot Boat NEW YORK. At the 15 November 2022 meeting, the Board reviewed the CV's for the permanent captains. Continued on the docket.

8e. At the 27 October 2020 meeting, the Board was advised that the SHPA was implementing 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. At today's meeting, the Board reviewed photos and discussed testing at the climbing facility of harness safety apparatuses. The minutes of the 15 March 2022 meeting on this issue are incorporated herein by reference. Continued on the docket.

8f. 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 Boat 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. At the 16 August 2022 meeting and the 23 August 2022 meeting, the Board discussed the ongoing handling of the Board's grants. At the 30 August 2022 meeting, the Board noted the final executed contract with Torrey Enterprises, LLC for that work. At subsequent meetings, the Board has continued to discuss the status of the grants and the training at MITAGS. Continued on the docket.

9. Hudson River Pilots Association:

9a. 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 Committee's 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. At the 16 August 2022 meeting and the 23 August 2022 meeting, the Board discussed an additional inquiry received from DEME regarding pilotage requirements. At the 20 September 2022 meeting, the Board noted the response sent to DEME's North American agent. The minutes of the 25 January 2022 Board Meeting are incorporated herein by reference. Continued on the docket.

10b. At the 16 August 2022 meeting and subsequent meetings, the Board discussed correspondence from the Northeast Marine Pilots Association regarding the proposed North Atlantic Right Whale

Seasonal Speed Zones regulations. At the 1 November 2022 meeting, the Board noted the response to the NMPA's request for comments regarding the proposed rule. 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 fourth quarter of 2022 have been provided to and reviewed by the Board (prior reports on file):

M/V ELLA (Portuguese Registered Container Ship, Built 2003) 11 October 2022: New York SHP Matthew Haley reported a non-compliant ladder (paint on steps).

M/V LIBERTY (U.S. Registered Car Carrier, Built 2006) 13 October 2022: New Jersey SHP Salvador Rivas reported improper use of the side port for pilot boarding.

M/V KEY OHANA (Marshall Islands Registered Bulk Carrier, Built 2010) 27 October 2022: New York SHP Matthew Haley reported non-compliant pilot ladder securing ropes.

M/V UHL FIERCE (Portuguese Registered Cargo Vessel, Built 2021) 30 October 2022: New Jersey SHP Salvador Rivas reported a poorly maintained pilot ladder. The ladder was taken out of service and replaced prior to boarding.

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

12a. M M/V HAMMONIA BALTICA (Liberian Registered Containership, Built 2011): 17 November 2022. After the M/V HAMMONIA BALTICA backed out of Port Elizabeth Berth 72 under the conn of McAllister docking pilot Captain Sheldon Davis, the main engine did not respond to a dead slow ahead engine order. The Captain then instructed the engine room to reset a main engine limit switch, and the vessel proceeded outbound with FBSHP Captain Christopher Pitfick assuming the conn in the Kill Van Kull. The Coast Guard had been notified of the incident, and ordered the vessel to proceed to Stapleton Anchorage for an engine test. The vessel was cleared to sail at 1600 and proceeded to sea under the conn of Captain Pitfick. Continued on the docket.

12b. M/V GSL TRIPOLI (Liberian Registered Container Ship, Built 2009): 8 November 2022. The M/V GSL TRIPOLI was inbound proceeding to Berth 84 Port Elizabeth under the conn of Deputy SHP Andrew Parkis when the vessel experienced a complete loss of propulsion in the area of Bay Ridge "2" buoy. At the time of the loss of propulsion, two assist tugs to be used during docking were close by and the Moran docking pilot was boarding the vessel. The tugs were used to assist in safely anchoring the vessel in Stapleton anchorage. The U.S. Coast Guard was notified. Continued on the docket.

12c. M/V EMIL SELMER (Marshall Islands Registered Bulk Carrier, Built 2010): 6 November 2022. While undocking from the Port Albany Ventures Terminal, and under the conn of FBHRP Ian Corcoran, the vessel lost astern propulsion. The vessel was returned to the dock and safely moored with the assistance of two tug boats to await repairs. The Coast Guard was notified. Continued on the docket.

12d. M/V EMIL SELMER (Marshall Islands Registered Bulk Carrier, Built 2010): 2 November 2022. While approaching its berth at the Port Albany Ventures Terminal with two assist tugs alongside, and under the conn of FBHRP Paul Chevalier, the vessel lost propulsion twice. The vessel regained propulsion when closer to the dock and was safely moored. The Coast Guard was notified. Continued on the docket.

12e. 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 was 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.

12f. 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 has discussed the document subpoenas and additional discovery demands served on the Board. At today's meeting, the Board was advised that there has been a settlement of the civil litigation between the parties during mediation. 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.

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.

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.

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 New Jersey Maritime Pilot and Docking Commission also formed a Pilot Safety Committee to evaluate pilot transfer arrangements and issued its report on 6 November 2020. The minutes of the 21 December 2021 Board Meeting are incorporated herein by reference. At the 15 November 2022 meeting, the Board was advised that the IMO Safety Committee will open the SOLAS Convention for amendment with respect to pilot boarding arrangements. Continued on the docket.

16. 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.

17. 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 was updated on the status of the relocation. At the 19 July meeting, the Board met with Allyson Bowen of Savills and toured office space at 17 Battery. At the 26 July 2022 meeting, the Board was advised that a Notice of Termination of Lease was received from building management. At subsequent meetings, the Board discussed the relocation and review information regarding alternate office locations. At the 8 November 2022 meeting, the Board noted the executed Term Sheet and artwork inventory. At today's meeting, the Board was updated on the status of the move Continued on the docket.

18. At the 11 October 2022 meeting, the Board was advised that there will be a change in IT vendors to SPARX Technologies. At the 8 November 2022 meeting, the Board was updated on the onboarding of its systems to SPARX. Continued on the docket.

19. At the 2 August 2022 meeting, legislative counsel Andy Roffe appeared and reported on various legislative issues including pilotage rate legislation and the November state elections. Continued on the docket.

20. 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 and others as a tribute to those that lost their lives and those that provided aid and assistance during the response and recovery efforts. At the 18 October 2022 meeting, the Board noted the distribution of the booklet at the APA Convention.

21. There being no further business to conduct, or public comment, the Board meeting was adjourned at 11:30 a.m.



Andrew Garger
Secretary