

BOARD OF COMMISSIONERS OF PILOTS OF THE STATE OF NEW YORK
Minutes of the Meeting of 28 April 2020

The following Commissioners were present:

James Mercante, President
Lucienne Bulow
Richard Hendrick
Joseph Ahlstrom

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 AM. The meeting was held via videoconferencing, consistent with Governor Cuomo's in-person workforce restrictions due to the COVID-19 emergency.

1a. Appearances in Public Session: None.

2. The Draft Minutes of the 21 April 2020 Regular Meeting were reviewed and approved.

3. 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:

Christine Razukis – FBLIS/BIS & Limited Branch SHP. Increase to Grade 2.

3a. Other Pilot/Personnel Matters: Continued on the docket.

4. **The Board adjourned to Executive Session to discuss and/or act on personnel, investigative and/or legal matters.**

5. **The Board returned to Public Session from Executive Session.**

6. Sandy Hook Pilots Association:

6a. The Board was provided with a report regarding the first meeting of the 2020 Apprentice Selection Committee held on 23 April 2020.

6b. Port Security Grant Application: The Board reviewed the Port Security Grant application in preparation for final submittal to FEMA. Continued on the docket.

6c. At the 28 January 2020 meeting the Board discussed and reviewed the SHPA procedures for communicating Pilot Boarding Deficiency Reports to its pilots. The Board continued that discussion at the 10 March 2020 meeting. At the 24 March 2020 meeting, the Board approved a letter to the SHPA, LIS/BIS Pilots, and the HSPA regarding distribution of the Reports to pilots. At the 7 April 2020 meeting the Board reviewed a response to its letter from the SHPA. The Board has continued to review and discuss Report distribution procedures. Continued on the docket.

6d. Review of Apprentice Selection Regulations: Continued on the docket.

6e. The Board has continued its survey and discussion relative to what the actions and response of a state pilot would be in an active shooter/hostile event situation encountered aboard a vessel, and has redirected the SHPA to continue to work on the development of language for further review by the Board when alerting USCG Sector NY VTS of such an emergency. At the 6 August 2019 meeting, the Board met with VTS personnel and the SHPA at USCG Sector NY for an overview and inspection of the VTS Center operations. After the overview and inspection, there was discussion concerning the state pilot's

emergency communications with VTS, VTS acknowledgement language and VTS response procedures. At the 8 October 2019 meeting, the Board approved a request by the SHPA to conduct a pilot security training course as part of the SHPA's continuing education program. The course was then developed by the SHPA with the assistance of the Maritime Institute of Technology and Graduate Studies ("MITAGS"). At the 19 November 2019 meeting, SHPA (NY) President, John DeCruz, and SHPA Director of Operations, Christopher Maglin, appeared before the Board to request a grant to assist with the development of the pilot security training course by MITAGS, which includes pilot response to a life threatening/hostile event situation aboard a vessel. The Board took the request under advisement. At the 10 December 2019 meeting, the Board approved a Training and Education Grant to the SHPA to defray the cost for development of the above referenced pilot security training course. Pilots began attending training sessions on 10 February 2020. The Board has been informed, however, that the training sessions are currently suspended due to the COVID-19 emergency. Continued on the docket.

7. Hudson River Pilots Association:

7a. At the 3 March 2020 meeting, the Board was advised that legislation proposed by the HSPA will be introduced in the NY State Assembly and the NY State Senate. At the 24 March 2020 meeting, the Board was advised that the legislation was introduced in the NY State Senate. At the 21 April 2020 meeting, the Board was advised that the legislation has also been introduced in the NY State Assembly. Continued on the docket.

7b. The Ports and Waterways Safety Assessment ("PAWSA") study of the Hudson River was completed and released in 2018. The study included a review of the establishment of additional anchorages, fish habitats, dredging, petroleum carrying vessels, the use of the navigation channel for proposed power transmission cables, and other environmental and recreational issues concerning the Hudson River. At the 30 January 2018 meeting, the Board was briefed on the formation of a Hudson River Safety, Navigation and Operations Committee ("HR Committee") to address, with local stakeholders, these and any additional issues. At the 9 July 2019 meeting, the Board was advised that language has been inserted in H.R. 3409, the House version of the USCG Authorization Act of 2019 ("Act"), which prohibits the USCG from establishing anchorages between Yonkers, New York and Kingston, New York. Additionally, the Act requires that the USCG provide 180-day advance notice to certain House and Senate committees prior to the establishment or expansion of anchorages outside the previously described waters on the Hudson River. The Board has continued to track the legislation and has also sent a letter to the House Transportation and Infrastructure Committee outlining its concerns regarding the anchorage prohibitions in the Act. The Board has been updated on the activities of the HR Committee with respect to the Act and specifically its efforts to reach a unified approach on the anchorage prohibition issue. On another issue, the Board has been advised that the HR Committee was granted Party status by the NY State Public Service Commission in connection with the Champlain Hudson Power Express Transmission Project. Continued on the docket.

8. Long Island Sound/Block Island Sound Pilotage: Continued on the docket.

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

9a. M/V THE AMIGO (Built 2012) 30 January 2020. Allision while under the conn of New Jersey State licensed Docking Pilot R. Murphy. As the vessel was approaching the Croda Terminal in Elizabeth, New Jersey, it made contact with the Arthur Kill Railroad Bridge. Minor damage to the vessel and the bridge was reported. Dep. SHP Stephen Feminella, accompanied by Apprentice Kiersten Healy, had transferred the conn to the docking pilot after getting underway from Bay Ridge anchorage. The Coast Guard was notified. Drug and alcohol test were administered to Dep. Sandy Hook Pilot Stephen Feminella and Apprentice Kiersten Healy with negative results. At today's meeting, the Board reviewed the New Jersey Maritime Pilot & Docking Pilot Commission Report. Based on the factual findings in the Report, the New Jersey Commission found no fault on the part of the Docking Pilot R. Murphy, determining, *inter alia*, that the allision was the result of an excessive angle of approach to the berth necessitated due to three lube oil boats moored near the berth and failure of the vessel to deliver the pilot's requested engine orders.

9b. M/V MAERSK KENSINGTON (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 Joseph 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 has 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 Capt. Sherwood to the MAERSK KENSINGTON. At the 21 January 2020 meeting, Executive Director Garger reported on the U.S. Coast Guard inspection of the MAERSK KENSINGTON's pilot ladder and rigging that he attended on 17 January 2020 while the vessel was docked in Port Elizabeth. At the 11 February 2020 meeting, the Board reviewed a HIPAA request dated 6 February 2020 from Tabak, Mellusi & Shisha LLP, attorneys for the estate of Dennis Sherwood. At the 18 February 2020 meeting the Board continued its review of the request and at the 25 February 2020 meeting the Board approved a letter responding to the HIPAA request. The Board sent the response and received a reply on 27 February 2020. At the 17 March 2020 meeting, the Board was advised that the Coast Guard has concluded the factfinding phase of its investigation and has begun the casualty analysis phase of the investigation. At today's meeting, the Board reviewed a letter dated 27 April 2020 sent to the Coast Guard from Tabak, Mellusi & Shisha LLP containing documentation analyzing pilot boarding arrangements on the MAERSK KENSINGTON. Continued on the docket.

10. PORT OF NEW YORK ISSUES:

10a. After a review of cruise ship pier allisions in the Port of New York and elsewhere, the Board has 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. In this regard, at the 27 February 2018 meeting, the Board noted recent incidents in Alaska where cruise ships were docked by the ship's master with a compulsory state pilot aboard. The Board also reviewed Alaska Administrative Code 12 ACC 56.960 (a) relative to the transfer of the conn policy between an Alaska state licensed pilot and a ship's officer. At the 11 December 2018 meeting, the Board noted a Maritime Institute of Technology and Graduate Studies best-practice course is being developed for Southeast Alaska Pilots and Norwegian Cruise Lines for pilotage of Very Large Cruise Ships. The Board has 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 12 November 2019 meeting, the Board reviewed the NTSB's Marine Accident Brief on the 28 August 2018 CARNIVAL HORIZON's allision with Pier 88 at the Manhattan Cruise Terminal. At the 3 March 2020 meeting, the Board reviewed the NTSB's Marine Accident Brief on the 12 February 2019 NORWEGIAN EPIC'S allision with Pier 3 in San Juan, Puerto Rico. Continued on the docket.

10b. The Board issued a letter on 10 November 2016 to the Army Corps of Engineers New York District ("ACOE") addressing the lack of visibility of large, unlit mooring buoys, especially during periods of darkness, located within certain designated federal anchorages in New York Harbor. The Board was advised by the USCG that the ACOE had opened a docket on this issue and would be conducting a workshop to assess anchorage improvements within designated federal anchorages in the New York Harbor. The Board has been provided regular updates as to the ACOE's New York & New Jersey Harbor Anchorages Study ("Anchorage Study") planning process as well as to the timeline and content of the initial public report on the Anchorage Study. Continued on the docket.

11. Pilotage of Foreign Flag Yachts/Recreational Vessels: During the 2019 legislative session, the Board reintroduced legislation amending 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. The proposed amendment aligns New York law with New Jersey, Connecticut and Rhode Island law relative to the issue of foreign flag yacht/recreational vessel compulsory pilotage. At the 10 December 2019 meeting, the Board was informed that the legislation was approved by the Governor on 6 December 2019 and became effective immediately. At the 7 January 2020 meeting, the Board was advised that a Chapter Amendment was introduced in both Houses of the New York State Legislature to provide technical clarification to the legislation. At the 14 January 2020 meeting, the Board was advised that the Chapter Amendment was placed on the Assembly Transportation Committee Agenda. At the 21 January 2020 meeting, the Board was advised that the Chapter Amendment was introduced in the State Senate. At the

11 February 2020 meeting, the Board was advised that the Chapter Amendment was sent to the State Senate floor. At the 25 February 2020 meeting, the Board was advised that the Chapter Amendment was passed in the State Senate and is awaiting delivery to the Governor. At the 21 April 2020 meeting, the Board was advised that the Governor signed the Chapter Amendment on 17 April 2020. Continued on the docket.

12. At the 18 February 2020 meeting, the Board reviewed and discussed legislation introduced in the New York State Senate and Assembly that addresses penalties for the operation of boats and vessels while under the influence of alcohol or drugs. At the 10 March 2020 meeting, the Board continued that discussion. The Board continues to monitor the status of the legislation. Continued on the docket.

13. The Board reviewed the statutory fees for March 2020.

14. Notice to Mariners, Marine Safety, Legal and Port Security News and Technical Information: The Board noted the Southeast Alaska Pilots Association COVID-19 Safety Protocols.

15. Safety and Security in State Pilotage Waters: Continued on the docket.

16. There being no further business to conduct, or public comment, the Board meeting was adjourned at 11:50 a.m.



Andrew J. Garger
Secretary