

BOARD OF COMMISSIONERS OF PILOTS OF THE STATE OF NEW YORK
Minutes of the Meeting of 4 August 2020

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 AM. The meeting was held via videoconferencing and limited in-person attendance, consistent with the New York State office-based work guidelines in place due to the COVID-19 emergency.

1a. Appearances in Public Session: None.

2. The Draft Minutes of the 28 July 2020 Regular Meeting were reviewed, amended, 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:

Gregory Stem (Deputy SHP): Increase to Grade 5.

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 advised of the SHPA preparations for Tropical Storm Isaias.

6b. SHPA Apprentice Selection Committee: At the 9 June 2020 meeting, Commissioner Bulow updated the Board on the activities of the Committee, including the approval of applicants for testing and evaluation. At the 23 June 2020 meeting, Commissioner Bulow reported that phase one testing and evaluation of the applicants should be completed in early July. At the 14 July 2020 meeting, the Board was advised that the Committee has started to review the phase one test results and evaluations and that there will be an early interview period in August for those candidates approved for an interview but unavailable in September due to sailing obligations. 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 HRPB regarding distribution of the Reports to pilots. At the 7 April 2020 meeting the Board reviewed a response to its letter from the SHPA. At the 19 May 2020 meeting, the Board was advised that the Executive Director of the LIS/BIS Pilots sent a request to all LIS/BIS pilots to utilize Pilot Boarding Deficiency Reports to track and resolve any deficiencies that are found. Similarly, at the 23 June 2020 meeting, Hudson River Pilot Association President Ian Corcoran advised the Board that all Hudson River Pilots have been provided with Pilot Boarding Deficiency Report forms for use when a deficiency is

found. At the 14 July 2020 meeting, the Board received an update from New York SHPA President Capt. John DeCruz on the SHPA's use of the Pilot Boarding Deficiency Reports. Continued on the docket.

6d. Review of Apprentice Selection Regulations: At the 5 May 2020 meeting, the Board discussed possible revisions to the regulations. At the 12 May 2020 meeting, the Board was briefed on discussions with the New Jersey Maritime Pilot and Docking Pilot Commission concerning revising the regulations. At the 26 May 2020 meeting, the Board was updated on additional discussions with the New Jersey Board. At the 16 June 2020 meeting, the Board continued discussing possible revisions to the regulations. At the 23 June 2020 meeting, the Board was briefed on discussions with legislative counsel. Continued on the docket.

6e. State Licensed Pilot Security Training and Communications/FEMA Port Security Grant: To ensure proper communication procedures in a life threatening/hostile event situation, the Board had requested the SHPA to work on the development of language for further review by the Board when alerting USCG Sector NY VTS of 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. With respect to training, 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 10 December 2019 meeting, the Board granted a Training and Education expenditure to the SHPA to defray the cost for development of the course. 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 and that the pilots will not resume training sessions February 2021.

To provide additional cost assistance for pilot security training, the Board had determined that the most effective approach would be to pursue a Port Security Grant (PSG) through the Federal Emergency Management Agency (FEMA). The Board first applied for the PSG in 2018 and again in 2019. On 1 July 2020, the Board was advised that its 2020 PSG application to provide state licensed pilots with advanced security training was approved. At the 7 July 2020 meeting, the Board discussed matters to be addressed going forward as a PSG funding recipient. At the 21 July 2020 meeting, the Board reviewed and discussed distribution of a Board Announcement regarding the PSG and reviewed letters sent to the U.S. Coast Guard regarding the PSG. At the 28 July 2020 meeting, the Board noted the Coast Guard's acknowledgements of the letters. The Minutes of the 30 June 2020 meeting on these issues are incorporated herein by reference. Continued on the docket.

7. Hudson River Pilots Association:

7a. Hudson River Pilot-in-Training Selection: At the 12 May 2020 meeting, the Board was updated on the progress of the HRPA Pilot-in-Training selection process. At the 23 June 2020 meeting, HRPA President Capt. Ian Corcoran advised the Board that additional testing and evaluation of the applicants had been delayed due to the COVID -19 emergency but should be completed shortly. At the 14 July 2020 meeting the Board was advised that Pilot-in-Training applicants are being scheduled for interviews. At the 21 July 2020 meeting, Commissioner Hendrick advised the Board that several applicants have now been interviewed by the HRPA. Continued on the docket.

7b. At the 3 March 2020 meeting, the Board was advised that legislation proposed by the HRPA will be introduced in the NY State Legislature. 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. At the 21 July 2020 meeting, the Board was informed that the legislation has been referred to the NY Senate Committee on Local Government. At the 28 July 2020 meeting, the Board was advised that the legislation passed in the NY State Senate and has been delivered to the NY State Assembly. Continued on the docket.

7c. 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

anchorage, 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 and contains additional notice requirements regarding anchorages in the Hudson. The Board continues to be updated on the HR Committee's activities, including its efforts to reach a unified approach on the anchorage prohibition issue contained in the Act. The Minutes of the 2 June 2020 meeting on this issue are incorporated herein by reference. Continued on the docket.

8. Long Island Sound/Block Island Sound Pilotage: The Board discussed the results of Pilot-in Training Dale Harper's LIS/BIS state pilot examination. Continued on the docket.

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

9a. M/V PEARL ISLAND (Built 2018): 24 June 2020. Possible Surge Damage. Forty minutes after the M/V PEARL ISLAND passed the Castleton Boat Club under the conn of FBHRP Robert Scott Ireland, the Boat Club contacted the vessel claiming damage to its docks from the surge caused by the vessel. Drug and alcohol tests were administered to Capt. Ireland with negative results. At the 30 June 2020 meeting, the Board reviewed correspondence received in connection with the incident. At the 21 July 2020 meeting, the Board discussed the Notice of Claim by the Castleton Boat Club for the alleged damage to its facilities caused by the PEARL ISLAND. Continued on the docket.

9b. M/V MAERSK IDAHO (Built 2000): 19 June 2020. COVID -19 Incident. After the MAERSK IDAHO's arrival in New York on 19 June 2020, a crew member was taken off the vessel and later diagnosed with COVID -19. The diagnosis was not reported to the SHPA or the Coast Guard until 20 June 2020 after the vessel departed New York while enroute to Norfolk, Virginia. Upon arrival in Norfolk, the entire crew was tested for COVID-19 and nine additional crew members tested positive. The two Sandy Hook pilots that were piloting the vessel entering and departing New York may have been exposed to the infected crew members and as a result self-quarantined and were tested for COVID-19. The pilots also reported that the vessel's crew were not taking appropriate COVID-19 precautionary measures. The Coast Guard investigated the incident and thereafter issued a Notice of Violation to Maersk for failure to report a hazardous condition (33 C.F.R. § 216). No violation of the New York Navigation Law or the New York Codes, Rules, and Regulations. No pollution, personal injury, or damage. The Board voted to close the case.

9c. 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 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 the 28 April 2020 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. At the 5 May 2020 and 12 May 2020 meeting, the Board discussed further steps to take in the investigation of the incident. At the 23 June 2020 meeting, the Board was updated on the status of the Coast Guard investigation. At the 30 June 2020 meeting, the Board again discussed further actions to take in the investigation. At the 21 July 2020 meeting, the Board noted that the review of the MAERSK KENSINGTON VDR by Commissioner Ahlstrom and Executive Director Garger at U.S. Coast Guard Sector New York is scheduled for 22 July 2020. At the 28 July 2020 meeting, the Board received a report on that review. 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 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 previously 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. 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 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:

11a. 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 legislation aligned 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 21 April 2020 meeting, the Board was advised that after passage by the NY State Legislature the Governor signed the Chapter Amendment on 17 April 2020. At the 2 June 2020 meeting, the Board discussed pilotage requirements for recreational vessels under the new legislation. At the 16 July 2020 meeting, the Board reviewed and revised a draft notice to pilots addressing pilotage requirements under the new legislation. At the 23 June 2020 meeting, the Board was advised that the final draft of the notice (Pilots Notice) was provided to the three New York State Pilot Associations, the U.S. Coast Guard, and the New Jersey and Connecticut Pilot Commissions. At the 30 June 2020 meeting, the Board was advised that the Pilots Notice has been posted on the Board's website. At the 14 July 2020 meeting, the Board discussed the new pilotage requirements with SHPA President Capt. John DeCruz. The Minutes of the 2 June 2020 meeting on this issue are incorporated herein by reference. Continued on the docket.

11b. At the 5 May 2020 meeting, the Board reviewed an inquiry from representatives of the M/Y UTOPIA IV concerning pilotage requirements in New York State waters. On 22 May 2020, the Board issued its response to the UTOPIA IV interests. At the 21 July 2020 meeting, the Board was advised that the M/Y UTOPIA has been reflagged from Marshall Island registry to U.S. registry. 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 is monitoring the status of the legislation. Continued on the docket.
13. The Board continued its review of the 2019 draft Annual Report.
14. The Board completed its review of the June 2020 UBS operating statements.
15. The Board discussed possible updates to its web domain name.
16. Notice to Mariners, Marine Safety, Security, Legal, and Technical Information: The Board noted a Maritime Executive article on a rate increase request by the Crescent River Port Pilots.
17. Port News and Safety and Security in State Pilotage Waters: Continued on the docket.
18. There being no further business to conduct, or public comment, the Board meeting was adjourned at 11:35 a.m.



Andrew J. Garger
Secretary