

BOARD OF COMMISSONERS OF PILOTS OF THE STATE OF NEW YORK
Minutes of the Meeting of 14 February 2023

The following Commissioners were present:

James Mercante, President
Richard Hendrick
Lucienne Bulow
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 7 February 2023 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.

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:

None.

7. Other Pilot/Personnel Matters: The Board reviewed and finalized a congratulatory letter to Captain David Gray, who retired from New York State pilotage on 1 February 2023.

8. Sandy Hook Pilots Association:

8a. New York SHPA President Captain James Mahlmann appeared before the Board to discuss various matters including the Board's Wireless Communication Device Policy (see 8b.), use of the pilot ladder training facility in Northvale, New Jersey, and the USS BATAAN incident on 10 February 2023.

8b. At the 20 December 2022 meeting, the Board reviewed Policy and Procedure 1-10 regarding the use of Wireless Communication Devices. At the 27 December 2022 meeting, the Board finalized Policy and Procedure 01-22, which replaced Policy and Procedure 1-10. At the 3 January 2023 meeting, the Board was advised that the new Policy and Procedure has been distributed to the New York State Pilots. At the 10 January 2023 meeting, the Board discussed the Maryland Board of Pilots newly implemented policy on the use of cellular devices. At the 17 January 2023 meeting, the Board discussed the new Policy and Procedure with HRP A President Captain Ian Corcoran and NMPA President Captain Richard Astles. At the 7 February 2022 meeting, the Board continued its discussion of the new Policy and reviewed the New Jersey Pilot Commission's Advisory on the use of wireless devices and comments submitted by the HRP A regarding same. At the 14 February 2023 meeting, the Board discussed the new Policy with SHPA President James Mahlmann. Continued on the docket.

8c. 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.

8d. Apprentice Selection Committee: At the 27 September 2022 meeting, the Board ratified the 2022 list of apprentice candidates presented by the Apprentice Selection Committee. At the 8 November 2022 meeting, the Board discussed the apprentice candidate selection process used by various pilot associations. Continued on the docket.

8e. At the 6 December 2022 meeting, the Board approved the SHPA's request that Apprentice Healy sit for her state pilot's license exam the week of 27 February 2023. Continued on the docket.

8f. 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 of the permanent captains hired by the SHPA. Continued on the docket.

8g. 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 the 22 November 2022 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.

8h. 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. At the 27 December 2022 meeting, the Board reviewed the Connecticut Pilotage Rate changes issued by the Connecticut Port Authority and the request by the Northeast Marine Pilots Association to approve the supplemental rate changes. At the 3 January 2023 and subsequent meetings, the Board reviewed draft regulatory filings to implement the rate changes in New York. At the 31 January 2023 meeting, the Board was advised that the regulatory filings have been filed with the NY Department of State Board. Continued on the docket.

10b. 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. At today's meeting, the Board approved a letter to DEME regarding the operation of the vessel LIVING STONE. The minutes of the 25 January 2022 Board Meeting are incorporated herein by reference. Continued on the docket.

10c. 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 previous three months have been provided to and reviewed by the Board (prior reports on file):

M/V WAN HAI 623 (Singapore Registered Container Ship, Built 2006) 23 November 2022: New York SHP Matthew Haley reported the failure of the vessel to have a ship's officer inspect the pilot ladder and stand by for pilot boarding.

M/V AMIS TREASURE (Liberian Registered Bulk Carrier, Built 2020) 12 November 2022: New York SHP Matthew Haley reported that the gangway was not properly secured to the hull. Gangway was properly secured before Captain Haley disembarked.

M/V Balsa 86 (Panamanian Registered General Cargo Vessel, Built 2011) 9 December 2022: New Jersey SHP Salvador Rivas reported a damaged ladder that required replacement before he boarded the vessel.

M/V SPARTO (Maltese Registered Tanker, Built 2020) 23 January 2023: New York SHP Matthew Haley reported unsafe access to the bottom of the ship's gangway while docked at Buckeye Perth Amboy.

M/V SEASPAN EMPIRE (Hong Kong Registered Container Ship, Built 2010): New York SHP Matthew Haley reported a gangway that was not properly secured to the hull for boarding.

M/V STI NOTTING HILL (Marshall Islands Registered Tanker, Built 2015): New Jersey SHP Ronald Perry reported the failure of the vessel to have a ship's officer standing by for pilot boarding and a damaged pilot ladder rung.

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

12a. USS BATAAN (Wasp Class Amphibious Assault Ship, Built 1996): 10 February 2023. While undocking from Earl Weapons Pier 3W in Leonardo, New Jersey, and under the conn of docking pilot Captain William O'Neill, one of the fenders on the pier failed resulting in contact between the USS BATAAN's port quarter and the pier, causing minor damage to the vessel. It was determined the damage was cosmetic and the vessel proceeded to sea. NY Sandy Hook Pilot Captain Jeffrey Tuthill was on board but had not yet assumed the conn. Continued on the docket.

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 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. At the 10 January 2023 meeting, the Board was updated on the status of ongoing litigation against the vessel owner arising out of the incident. At the 17 January 2023 meeting, the Board reviewed the Third-Party complaint filed by the vessel owner against the SHPA.

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. At the 17 January 2023 meeting, the Board reviewed the notice issued by the UK Maritime Pilots Association regarding a recent pilot fatality. 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. At the 3 January 2023 meeting, the Board was advised that the legislation was signed by Governor Hochul with a signing memo and returned to the NY Legislature.

At the 31 January 2023 meeting, the Board discussed the legislation. 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 for the new office location at One Battery Park Plaza. At the 6 December 2022 meeting, the Board reviewed the draft License Agreement and moving estimate. At the 20 December 2022 meeting, the Board reviewed a revised License Agreement. At subsequent meetings, the Board was updated on the status of the move. The move was completed on 1 February 2023. At the 7 February 2023 meeting and today's meeting, which were both held at the new office at One Battery Park Plaza, the Board discussed the move and the remaining steps to complete the set-up of the new office space. Continued on the docket.

18. 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. At the 13 December 2022 meeting, the Board approved The Roffe Group of Robinson & Cole for 2023. Continued on the docket.

19. 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.

20. Marine Society Annual Dinner scheduled for 27 March 2023: At the 7 February 2023 meeting, Board attendance was discussed. Continued on the docket.

21. There being no further business to conduct, or public comment, the Board meeting was adjourned at 11:55 a.m.



Andrew Garger
Secretary