

BOARD OF COMMISSIONERS OF PILOTS OF THE STATE OF NEW YORK
Minutes of the Meeting of 9 March 2021

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 23 February 2021 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: None.

3a. Other Pilot/Personnel Matters: The New York Sandy Hook Pilot Apprentice Oath was administered to Michael V. Pino.

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. At the 27 October 2020 meeting, the Board reviewed the SHPA grant request for a pilot ladder climbing training program. At the 3 November 2020 meeting, the Board discussed the program with SHPA President Capt. John DeCruz and Director of Operations Chris Maglin. At the 24 November 2020 meeting, the Board noted Capt. DeCruz's attendance at the climbing facility to assess the pilot ladder training equipment. At the 12 January 2021 meeting, the Board was advised that the first group of apprentices are scheduled for training at the climbing facility on 28 January 2021. At the 2 February 2021 meeting, the Executive Director reported on the 28 January 2021 training session. At the 9 February 2021 meeting, the Board continued to discuss training at the climbing facility. At today's meeting, the Board was updated on the training program by Chris Maglin. Continued on the docket.

6b. 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 HRPAs 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. At the 6 October 2020 meeting, the Board reviewed Pilot Boarding Deficiency Reports received from the SHPA. At the 10 November 2020 meeting, the Board reviewed a deficiency report submitted by Captain Matthew Haley. At the 5 January 2021 meeting, Captain Robert Dreher advised the Board that he filed a Pilot Boarding Deficiency Report on 3 December 2020 concerning the combination pilot ladder arrangement on the ASTRID SCHULTE. At the 12 January 2021 meeting, the Board reviewed that deficiency report. (See 9, Pilot Boarding Deficiency Reports, below). Continued on the docket.

6c. 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. At the 22 September 2020 meeting, the Board agreed to move forward with revisions to the regulations. At the 22 December 2020 meeting, the Board was updated on the status of the proposed revisions. At the 26 January 2021 meeting, the Board reviewed comments received from the SHPA. At the 9 February 2021 and 16 February meeting, the Board discussed its response to the SHPA's comments and filing for the regulatory revisions. At the 23 February 2021 meeting, the Board reviewed and revised documentation to be filed with the New York Department of State. At today's meeting, the Board was advised that documentation supporting the proposed rule change has now been filed with New York State Regulatory Review Unit. Continued on the docket.

6d. 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 until February 2021.

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 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. At the 6 October 2020 meeting, the Board reviewed the current MITAGS security training curriculum and discussed additional steps to implement a security training program. At the 10 November 2020 meeting, and at subsequent meetings, the Board has continued to discuss the training curriculum. At today's meeting, the Board was advised that the Notice of Funding Opportunity for the 2021 Port Security Grant Program has been issued. The Minutes of the 30 June 2020 meeting on these issues are incorporated herein by reference. Continued on the docket.

6e. The Board reviewed the Monthly Apprentice Report.

7. Hudson River Pilots Association:

7a. The Board appointed Commissioner Hendrick to the Hudson River Pilots Surcharge Board.

7b. At the 3 March 2020 meeting, the Board was advised that legislation proposed by the HRPAA would be introduced in the NY State Legislature. The Board was subsequently updated on developments regarding the legislation including passage in the NY State Senate. At the 5 January 2021 meeting, the Board was advised that the legislation did not pass in the NY State Assembly during the 2019-2020 legislative session. At the 12 January 2021 meeting, the Board was advised that the legislation was reintroduced in 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 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 United States Coast Guard 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. 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. 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:

8a. At the 9 February 2021 meeting, the Board was advised that Captain Paul Costabile is retiring as Executive Director of Northeast Marine Pilots and that his successor will be Captain Chris Murray. Continued on the docket.

8b. At the 27 October 2020 meeting, the Board discussed LIS/BIS emergency procedures. Continued on the docket.

8c. At the 6 October 2020 meeting, the Board was advised that Long Island Sound Sector Commander Captain Eva Van Camp proposed to meet with the Board. A meeting was subsequently held on 19 November 2021 with Captain Van Camp to discuss several issues including pilot safety and training of pilots. Continued on the docket.

8d. At the 22 September 2020 meeting, the Board reviewed a request regarding pilotage requirements for survey vessels operating in Long Island Sound. At the 20 October 2020 meeting, the Board discussed responding to that request. At the 17 November 2020 meeting, the Board reviewed the letter issued in response. At the 12 January 2021 meeting, the Board noted an additional inquiry received by the Northeast Marine Pilots Association regarding pilotage requirements for survey vessels. Continued on the docket.

9. PILOT BOARDING DEFICIENCY REPORTS AS PROVIDED TO THE BOARD:

M/V ASTRID SCHULTE (UK Registered Container Ship, Built 2009) 3 December 2020: FBSHP Robert Dreher reported a combination ladder arrangement with a protruding crossbar that required the pilot to lean back away from the pilot ladder to continue the transition to the accommodation ladder. The vessel agent was notified of the pilot's objection to the arrangement.

M/V AGIOS DIMITRIOS (Liberian Registered Containership, Built 2011) 8 November 2020: FBSHP Matthew Haley reported non-compliant trap door arrangement and improper securing of the pilot ladder to the vessel's handrail. After changes were made by the vessel, the Coast Guard inspected and approved the vessel's modified pilot transfer arrangements. Continued on the docket.

M/V MAERSK KENSINGTON (US Registered Container Ship, Built 2007) 30 December 2019: FBSHP Edward Ireland reported unsafe conditions with the combination ladder arrangement, including improper placement of the top rung of the ladder and insufficient lighting.

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

10a. M/V MAERSK CHICAGO (United States Registered Containership, Built 2007): 25 February 2021. Loss of Power. While inbound from Ambrose Pilot Station under the conn of Deputy Sandy Hook Pilot Camilo Lugo, the MAERSK CHICAGO experienced a total loss of power at 0447 hours while in the shipping channel approaching the Verrazzano-Narrows Bridge. While the master coordinated emergency procedures with the engine room, Captain Lugo contacted nearby tugs for assistance. The JAMES MORAN was made fast on the port bow and two other tugs were standing by as the vessel was safely anchored outside of Stapleton Anchorage. Main power was restored at 0458 and the main engine was restarted at approximately 0505. With the main engine operational and with the assist tugs standing by, the vessel was re-anchored inside of Stapleton Anchorage. The Coast Guard was notified, and the cause of the power loss is being investigated. Continued on the docket.

10b. M/V EAGLE TURIN (Singapore Registered Tanker, Built 2008): 5 August 2020. Fatality. FBSHP Timothy Murray sustained fatal injuries while boarding the M/V EAGLE TURIN at approximately 2230 upon its arrival at Ambrose Pilot Station after falling from the ship's pilot ladder onto the Pilot Launch AMERICA. The U.S. Coast Guard, New York City Fire Department, and New York City Police Department were all notified. The EAGLE TURIN then 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. Continued on the docket.

10c. M/V MAERSK KENSINGTON (United States Registered Container Ship, 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 Voyage Data Recorder 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 verbal report on that review. The Board issued its Findings, Opinions, and Recommendations

on 11 September 2020. At the 20 October 2020 meeting, the Board reviewed a request by the American Pilots Association regarding the Board report. The Board's Addendum to its Findings, Opinions, and Recommendations was issued on 13 November 2020 and 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. Continued on the docket.

11. NEW YORK PILOTAGE WATER ISSUES:

11a. The Board has previously reviewed cruise ship pier allisions in the Port of New York 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. The minutes of the 4 August 2020 Board Meeting are incorporated herein by reference. Continued on the docket.

11b. The Board previously 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 has been provided regular updates as to the ACOE's New York & New Jersey Harbor Anchorages Study planning process. At the 12 January 2021 meeting, the Board was advised that the mooring buoy issue has not been addressed in the ACOE's Anchorage Study. The minutes of the 4 August 2020 Board Meeting are incorporated herein by reference. Continued on the docket.

12. Pilotage of Foreign Flag Yachts/Recreational Vessels: At the 21 April 2020 meeting, the Board was advised that the Governor had signed a Chapter Amendment providing technical clarification to recently enacted legislation that 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. This legislation 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 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 14 July 2020 meeting, the Board discussed the new legislation with SHPA President Capt. John DeCruz. The Minutes of the 2 June 2020 Board Meeting on this issue are incorporated herein by reference and the new requirements are posted. Continued on the docket.

13. 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 initially consists of the Board President (Mercante), Executive Director (Garger), and members of the Board (Ahlstrom and Rowland).

The Subcommittee will review and evaluate safety protocols, equipment, and ship boarding arrangements currently used by the state pilots while boarding ships at sea or elsewhere by pilot ladder. Similarly, the New Jersey Maritime Pilot and Docking Commission formed a Pilot Safety Committee to evaluate pilot transfer arrangements. The New York Board participated on that Committee. At the 13 October 2020 meeting, the Board noted a scheduled meeting with Coast Guard - Sector New York on 14 October 2020 to discuss pilot safety and transfer issues. At the 20 October 2020 meeting, the Board discussed the Subcommittee's meeting with the Coast Guard. At the 10 November 2020 meeting, the Board discussed a draft report on pilot safety issued by the New Jersey Pilot Safety Committee. At the 8 December 2020 meeting, the Board reviewed Pilot Ladder Safety Newsletter No. 3 published on the website pilotladdersafety.com. At subsequent meetings, the Board has continued to discuss pilot safety and transfer procedures. At today's meeting, the Board discussed pilot safety issues with New York Sandy Hook Pilot President John DeCruz, including a Maersk circular addressing trap door pilot ladder arrangements on their vessels. Continued on the docket.

14. At the 18 February 2020 meeting, the Board reviewed and discussed legislation introduced in the New York State Legislature addressing penalties for the operation of boats and vessels while under the

influence of alcohol or drugs. The Board continued to monitor the legislation but was advised at the 5 January 2021 meeting that the legislation had not passed during the 2019-2020 legislative session. At the 12 January 2021 meeting, the Board was advised that the legislation was reintroduced in the NY State Senate. Continued on the docket.

15. At the 24 November 2020 meeting, the Board discussed the report drafted by retired Executive Director Robert Pouch concerning his personal experiences following the 9-11 terrorist attack on the World Trade Center and necessary steps to publish his report. At the 8 December 2020 meeting, the Board was briefed on a meeting between Mr. Pouch and the Executive Director. At the 5 January 2021 meeting, the Board noted a photo of the maritime response to 9-11 from the 9-11 Museum provided by Commissioner Bulow. At the 23 February 2021 meeting, the Board approved the execution of a release required by the NYPD allowing use of that photo. Continued on the docket.

16. Vessel and Port News: At the 29 December 2020 meeting, the Board discussed the 11 December 2020 letter from the Maritime Association of the Port of New York and New Jersey to Governor Cuomo and Governor Murphy regarding port industry worker's access to the COVID-19 vaccine. At the 12 January 2021 meeting, the Board was advised that, to date, the Maritime Association has not received a response to its letter. At the 26 January 2021 meeting, the Board was advised that a similar letter was sent by the Port Authority of New York/New Jersey. Continued on the docket.

17. The Board noted the *New York Law Journal* article "Good Faith Matters Utmost" by Commissioner Mercante.

18. At the 12 January 2021 meeting, the Board was advised of the 17 May 2021 filing deadline for the JCOPE Annual Statement of Financial Disclosure (FDS). Continued on the docket.

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



Andrew J. Garger
Secretary