

BOARD OF COMMISSONERS OF PILOTS OF THE STATE OF NEW YORK
Minutes of the Meeting of 19 September 2023

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 12 September 2023 Board 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:

John McCarthy (FBSHP)
Apprentice Appearance - Jesse Wynn

7. Other Pilot/Personnel Matters: Continued on the docket.
8. Sandy Hook Pilots Association:
 - 8a. At the 8 August 2023 meeting, the SHPA President Captain James Mahlmann, Apprentice Supervisory Committee Chairman Captain John DeCruz, and SHPA Director of Operations Chris Maglin appeared before the Board to discuss the use of Apprentice Assessment forms. At subsequent meetings, the Board has continued to review documents regarding assessments and apprentice appearances. Continued on the docket.
 - 8b. SHPA Harbor Inspection Cruise aboard the Pilot Boat NEW YORK on 15 September 2023: Commissioner Mercante reported on his attendance on the cruise.
 - 8c. The Board discussed preparation of additional questions for the licensing exam, which included a review of the Board's original Opinion and Order issued with respect to the 15 April 2005 M/T FASE grounding and its Final Opinion and Order issued after the re-opened hearing.
 - 8d. At the 27 June 2023 meeting, the Board approved changes to the SHPA's Deputy Pilot grade structure as proposed and set forth by the SHPA NY President Captain James Mahlmann in his June 26, 2023 letter to the Board. At the 5 July 2023 meeting, the Board finalized a letter advising the SHPA of its approval. Continued on the docket.
 - 8e. At the 18 April 2023 meeting, the Board discussed correspondence from NY SHPA President Captain James Mahlmann regarding changes to the pilotage transport fees. At the 2 May 2023 meeting, the Board met with Captain Mahlmann to discuss the proposed changes and to also discuss recalibration of licensing grades. At the 16 May 2023 meeting, the Board voted to approve the recommended changes

to pilotage transport fees. At the 23 May 2023 meeting, the Board noted the letter sent to Captain Mahlmann advising him the Board has no objection to the fee changes. At the 20 June 2023 meeting, the Board finalized documentation that has been filed with NY State regarding the proposed changes. Continued on the docket.

8f. 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. At the 28 March 2023 meeting, the Board discussed the Seasonal Speed Zone Regulations with NYSHPA President Captain James Mahlmann. At the 9 May 2023 meeting, the Board continued to discuss the proposed regulations and the potential impact on pilot boat operations. At the 13 June 2023 meeting, the Board reviewed an article regarding legislation introduced in the U.S. Senate regarding the speed zones. Continued on the docket.

8g. 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.

8h. The Board was advised that the SHPA implemented 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. The minutes of the 15 March 2022 meeting on this issue are incorporated herein by reference. Continued on the docket.

8i. State Licensed Pilot Security Training and Communications/FEMA Port Security Grants: The 2020 Port Security Grant (PSG) awarded to the Board by FEMA supported a pilot security training and communications course at the Maritime Institute of Technology and Graduate Studies (MITAGS). Training was completed in Spring of 2023. The 2021 Port Security Grant awarded to the Board was used to fund CCTV cameras for the SHPA's new Pilot Boat NEW YORK. The Minutes of the 7 February 2023 meeting and 5 July 2023 meeting on these issues are incorporated herein by reference. Continued on the docket.

9. Hudson River Pilots Association:

9a. At the 8 August 2023 meeting, the Board was advised that HRP Captain Stephen Doherty accepted a position as a docking pilot trainee with Moran Towing. At subsequent meetings, the Board has continued to discuss Captain Doherty's request to maintain a continuity license. At today's meeting the Board also discussed the process for identifying apprentice candidates. Continued on the docket.

9b. The Board was advised of a report by the Tri-City Yacht Club, located on the Hudson in Selkirk, NY, of an excessive wake from the M/V PORTO LEONE on 10 September 2023 while the vessel was passing the yacht club.

9c. Champlain Hudson Power Express Project. Continued on the docket.

9d. At the 23 May 2023 meeting, the Board discussed the Hudson River Pension Surcharge Committee's decision regarding the pilotage fee pension surcharge effective 1 July 2023. At the 30 May 2023 meeting, the Board was updated on the implementation of the 2023 surcharge by Captain Chevalier, a member of the Surcharge Committee. Continued on the docket.

9e. At the 14 March 2023 meeting and 2 May 2023 meeting, the Board discussed the status of Hudson River dredging by the Army Corps of Engineers. At the 30 May 2023 meeting, the Board was updated on Hudson River dredging by HRP President Captain Corcoran. Continued on the docket.

9f. 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 by Commissioner Hendrick on the HR Committees 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. At the 2 May 2023 meeting, the Board discussed the issuance of the Coast Guard report on Hudson River anchorages. At the 30 May 2023 meeting, the Board discussed the status of the establishment of Hudson River anchorages with Captain Corcoran. Continued on the docket.

9f. At the 2 May 2023 meeting and subsequent meetings, the Board has been updated by Commissioner Hendrick on the status of possible port calls by Bahri Lines vessels at the Port of Albany. Continued on the docket.

10. Long Island Sound/Block Island Sound Pilotage:

10a. At the request of the Northeast Marine Pilots Association, the Board filed proposed rate changes with the NY Department of State in January 2023. At the 16 May 2023 meeting, the Board was advised that the new Pilotage rates went into effect on 10 May 2023.

10b. Pilotage Requirements for offshore wind project vessels: The Board has reviewed and responded to several inquiries regarding New York State pilotage requirements for 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 the 14 February 2023 meeting, the Board approved a letter to DEME regarding the operation of the vessel LIVING STONE. At the 11 April 2023 and 18 April 2023 meeting, the Board discussed a request received from vessel operator Boskalis regarding pilotage requirements. At the 2 May 2023 meeting, the Board discussed Boskalis' request with Northeast Marine Pilots Association President Captain Richard Astles. At the 9 May 2023 meeting, the Board was updated on the Rhode Island Pilot Commission's discussions regarding Boskalis' request. At today's meeting, the Board noted an article regarding the status of offshore wind farm projects. The minutes of the 25 January 2022 Board Meeting are incorporated herein by reference. Continued on the docket.

10c. The Change of Command Ceremony for Captain Eva Van Camp was held on 21 June 2023 in New Haven, CT. At the ceremony, Captain Elisa Garrity assumed command of Sector LIS.

10d. 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.

10e. At the 5 July 2023 and subsequent meetings, the Board discussed documentation for LIS/BIS license renewals. 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):

CMA CGM BEIRA (Maltese Registered Container Ship, Built 2006) 24 June 2023: New York SHP Matthew Haley reported that the vessel had freeboard over 9 meters without the required combination ladder arrangement.

CMA CGM HERMES (Maltese Registered Container Ship, Built 2021) 26 June 2023: New York SHP Matthew Haley reported that the ladder appeared to be fatigued with loose steps and a crooked spreader.

M/V EVER FINE (Panamanian Registered Container Ship, Built 2021) 26 June 2023: New Jersey SHP Graham Mergenthaler reported that while alongside the berth the gangway was uneven and slippery.

M/V SC MONTREUX (Marshall Islands Registered Container Ship, Built 2005) 1 July 2023: New Jersey SHP James Britton reported that the platform used in the combination ladder trap door arrangement was obstructed by stanchions and cross members.

M/V FRANKFORT EXPRESS (German Registered Container Ship, Built 2010) 29 July 2023: New York SHP Matthew Haley reported a non-compliant ladder due to painted steps and a loose chock.

M/V MSC TAVVISHI (Liberian Registered Container Ship, Built 2000) 12 August 2023: New York SHP Andrew Glassing reported a non-compliant ladder. The ladder did not fall in a vertical line from the main deck.

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

12a. M/V OLEANDER (Marshall Islands Registered Container Ship, Built 2019): 8 September 2023. Captain Kiersten Healy was on board the M/V OLEANDER prior to the departure of the vessel from Port Elizabeth Berth 58 when the Tug DOUGLAS J was tied up on the port quarter of the vessel to assist in undocking. A docking pilot is not used for undocking the OLEANDER. According to Captain Healy, once the vessel was underway and after the tug was let go, the crew reported damage to the hand rails and hydraulic lines in the vicinity of where the tug was tied up. Drug and alcohol tests administered to Captain Healy were negative. Continued on the docket.

12b. M/V NAVIG8 SUCCESS (Marshall Island Registered Tanker, Built 2009): 2 September 2023. While departing Stapleton Anchorage heading to sea, and under the conn of Deputy SHP Jeffrey Tuthill, the NAVIG8 SUCCESS did not respond to a dead slow ahead engine order. After it was determined that there was a problem with the main engine Captain Tuthill safely re-anchored the vessel. The ship's captain reported that the engine malfunction was caused by a stuck limit switch. The Coast Guard confirmed this cause and also advised that the vessel also had a loss of propulsion on 1 September 2023 caused by a loose wire leading to the governor actuator on the main propulsion system. No violation of the New York Navigation Law or the New York Codes, Rules, and Regulations. No pollution or personal injury. The Board voted to close the case.

12c. 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. At the 21 March 2023 meeting, the Board reviewed the SHPA's Answer to the Third-Party Complaint. At the 9 May 2023 meeting, the Board discussed the Coast Guard's Report of Investigation. At the 23 May 2023 meeting, the Board discussed the status of the litigation. At the 5 July 2023 and subsequent meetings, the Board discussed the Subpoenas served on the Board. Continued on the docket.

13. NEW YORK PILOTAGE WATER ISSUES:

13a. The Board discussed the status of Red Hook Terminal. Continued on the docket.

13b. 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. At the 28 March 2023 meeting, the Board discussed cruise ship moorings with NYSHPA President Captain James Mahlmann. Continued on the docket.

13c. 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. 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. At the 9 May 2023 meeting, the Board discussed the Coast Guard's Reports of Investigation for the EAGLE TURIN and the MAERSK Kensington. At the 16 May 2023 meeting, the Board discussed the article regarding the 5 May 2023 Japanese pilot fatality. At the 6 June 2023 meeting, the Board reviewed article regarding the conviction of ship operator and master after a pilot ladder fall injury in Perth Australia in August 2022. At the 20 June 2023 meeting, the Board discussed NY SHP President Captain James Mahlmann's attendance at the Maritime Pilots Institute in Covington, LA. Continued on the docket.

15. 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 returned to the NY Legislature with Governor Hochul's signing memo. At the 31 January 2023 meeting, the Board discussed the legislation. At the 4 April 2023 meeting, the Board was advised that the final version of the legislation was signed by Governor Hochul. At the 5 September 2023 meeting the Board discussed the legislation with Andy Roffe of Robinson and Cole. Continued on the docket.

16. At the 4 April 2023 meeting, the Board noted the proposed legislation reintroduced in the New York State Legislature (S 5424 and A 3380) that provides for the revocation of a person's driver's license after a conviction for operating a vessel while under the influence of alcohol or drugs. Continued on the docket.

17. 2023 SUNY Maritime Admiral's Dinner on 19 September 2023: At the 15 August 2023 meeting, the Board reviewed a draft program ad. At the 29 August 2023 meeting, the Board noted SUNY Maritime President Rear Admiral Michael Alfultis' retirement announcement. Continued on the docket.

18. There being no further business to conduct, or public comment, the Board meeting was adjourned at 12:00 p.m.

A handwritten signature in cursive script, appearing to read "A. Garger".

Andrew Garger
Secretary