

974.905

m232

**Minutes of the Regular Meeting of The  
New Jersey Maritime Pilot & Docking Pilot Commission  
August 20, 2013**

The regular meeting of The New Jersey Maritime Pilot and Docking Pilot Commission was held on Tuesday, August 20, 2013 at One Penn Plaza East, 9<sup>th</sup> Floor, Newark, NJ 07105.

Commissioner Stapleton called the meeting to order at 1:04pm.

Pledge of Allegiance

Open Public Meeting Statement

Roll Call

Commissioner Timothy J. Dacey, present; Commissioner Brian McEwing, present via teleconference; Commissioner Charles Stapleton, present; Commissioner Charles Wowkanech, present.

Minutes of Prior Meetings

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech that the minutes of the July 26, 2013 teleconference meeting be approved.

All voted in favor.

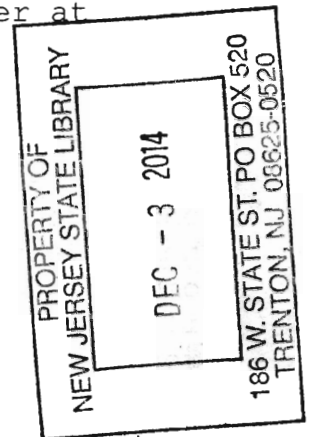
Treasurers Reports

A motion was made by Commissioner Wowkanech and seconded by Commissioner Stapleton to pass Resolution #13-22 to approve the August 2013 Treasurers Report.

All voted in favor.

Executive Director's Report

Captain Sarubbi welcomed Captain Kevin Walsh and his family to the meeting.



Captain Sarubbi informed the Commission that he has been having quarterly meetings with Frank Keane, the Executive Director of the New York Commission. The purpose of the meetings is for both organizations to keep one another informed of their current activities.

Captain Sarubbi pointed out that New York is in the process of a legislative proposal that would limit a pilot's liability if they were involved in an accident. The proposal passed the New York Senate late in the legislative season and was not yet considered by the Assembly. New York feels that once the bill is introduced to the Assembly it will pass. Captain Sarubbi recommended that the Commission consider passing the same legislation.

Captain McGovern informed the Commission that when New York considered proposing the legislation they met with Commissioner Thomas Daly the current president of the New Jersey Commission. Commissioner Daly recommended that New York proceed with the bill and once it passed, New Jersey would then follow suit and propose a duplicate bill. This would eliminate the possibility of two separate laws being passed. He also informed the Commission that the original bill was reviewed and amended by the trail lawyers and in its current state the bill is essentially worthless and the language will need to be changed before New York proceeds.

Captain Sarubbi pointed out that his report was based on information he received from the New York Board.

Captain Sarubbi gave a Power Point presentation on the ongoing Harbor Deepening projects.

Captain Flannery provided additional feedback on the report and advised the Commission that there is a Committee that meets every week to try and iron out the ongoing issues related to the dredge zones.

Captain Sarubbi informed the Commission that he attends those meetings.

Captain Sarubbi was asked to put together a comprehensive report with pre and post dredging numbers to forward to the Governor's office so that they can be aware of the current situation and the impact the dredging is having on commerce. Commissioner Dacey also suggested that he include the impact on toll bridges as it relates to the dredge zones.

Comments from Captain Robert Flannery, President, Metro Pilots Association:

Captain Flannery stressed to the Commission that while the dredging is going on there will be minor incidents with the

buoys that the pilots will not be able to avoid. He used the NYK Clara incident of July 21, 2013 as an example. The tug that was made fast to the vessel hit the articulated buoy marking the AK-3 project area's southern edge. There was no damage to the vessel, tug or the buoy and the incident could not be avoided.

The Commission informed them that they would consider all contributing circumstances when reviewing future incidents in all the dredge zones.

Comments from Captain Andrew McGovern, President, The New Jersey Sandy Hook Pilots Association:

Captain McGovern presented the Commission with a regulatory proposal that would upgrade the tonnage levels for deputy pilots. This would enable the pilots to be able to respond to the larger vessels that are projected to call into the ports of NY/NJ in 2014.

Commissioner Stapleton pointed out the importance of preparing our pilots for the larger post Panamex vessels and advised Peter Simon from the Authorities Unit that the Commission plans to include the new tonnage levels in with the current regulatory proposal that is being reviewed by the Governor's office.

#### Committee Reports

##### A. Examination Committee:

Commissioner Stapleton informed the Commission that Captain Walsh did a great job on the test. He was impressed to see how proficient the apprentice was in completing such a difficult test.

##### Investigation Committee:

- I. **Flagship Privet** - June 4, 2013. This incident is still under investigation.
- II. **Lawrence H. Giarella** - June 13, 2013. This incident is still under investigation.
- III. **NYK Clara - July 21, 2013.** Based on his investigation, Captain Sarubbi recommended that the incident be closed and the Commission finds no fault on the part of either pilot. A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to accept the recommendations. All voted in favor.

**IV. Hanjin Los Angelos** - August 2, 2013. Based on his investigation, Captain Sarubbi recommended that the Commission find not fault on the part of either pilot and that a copy of the Report be placed in Captain Weiner's personnel file. A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to accept the recommendations. Captain Flannery asked that the report be amended to show that the docking pilot towed a "dead ship" safely through the Kill Van Kull with the assistance of four tugs. The motion was put to a vote as amended and passed unanimously.

Swearing in of Captain Kevin J. Walsh

Captain Kevin J. Walsh was sworn in by Commissioner Stapleton. Captain Walsh gave the Commission a brief summary of his background and thanked them for the opportunity to realize his goal of becoming a Maritime Pilot.

Resolution #13-23 to Approve the Appointment of Paul Torres as an Maritime Pilot Apprentice

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to approve the appointment of Paul Torres into the Sandy Hook Pilots Apprentice Training Program. All voted in favor.

Apprentice Torres will appear at the Commission's September 17, 2013 regular meeting to be interviewed and receive his certificate of appointment.

New Business

A. Discussion on Post Incident Drug & Alcohol Testing Procedures:

The Commissioners were given the attached draft of the Post Incident Drug & Alcohol Testing Procedures proposed by Captain Sarubbi. Captain Sarubbi explained that he used Federal rules as a guide when drafting the procedures. Several recommendations were made by the Commissioners and the Association Presidents to amend the draft. Commissioner Stapleton asked the Association Presidents to send their recommendations to Captain

Sarubbi. Captain Sarubbi was then asked to incorporate their recommendations into his draft and circulate it to the Commissioners for their comments and edits. The final draft will be discussed at the September 17, 2013 meeting.

B. Training Grant Request from Sandy Hook:

The Commission received a training grant request from Sandy Hook to send two senior apprentices to Maritime Pilots Institute for a 5 day program. The program would consist of 3 days of manned model training and a 2-day BRMP class. Last year the Commission sent Captains Karen Basciano and Kevin Walsh to the training and both found it to be extremely beneficial. Captain Sarubbi recommended that the Commission approve the request. The Commission approved the \$10,300 grant request.

C. Working Group to Review Sandy Hook Apprentice Selection Medical Criteria:

Captain McGovern asked the New York and New Jersey Commissions to set up a committee to review the current medical criteria used in selecting prospective candidates for the apprentice training program. Sandy Hook would also like to review the current policy on accepting applicants with DWI's. He stated that several circumstances came up during the last selection process that need to be addressed. Captain Sarubbi recommended that the docking pilot associations become a part of the discussion because any changes made to the selection criteria should also apply to them. The Commissioners recommended that the committee move forward. They also suggested that a physician be asked to participate since medical criteria will be reviewed.

Old Business

A. NYK - Notice to Pilots:

Captain Bill Payne from NYK contacted the Commission's office in response to their letter of August 8, 2013. They agreed to rewrite the notice so that it specifically lists the three circumstances in which a pilot can be relieved by the Master. They have also agreed to eliminate the requirement for the pilot to sign the notice. NYK will forward a copy of the amended notice before it is posted on any more vessels for the Commission to review.

Captain Sarubbi also informed the Commission that per their instructions he is in the process of working with Frank Keane of the New York Board to establish a joint pilot card. A question has arisen on how to incorporate Docking Pilots into the language on the joint card since they are non-compulsory pilots. He stated that he is waiting on a legal opinion from counsel on how to proceed. Ms. Schwartz asked that the conversation take place in Executive Session since it is attorney client privilege.

#### Executive Session

WHEREAS, the Open Public Meetings Act provides that a public body such as The New Jersey Maritime Pilot and Docking Pilot Commission may meet in closed session to discuss personnel and legal matters.

WHEREAS, the Commission desires to meet in closed session to discuss such matters.

NOW THEREFORE, be it resolved that the Commission shall at this time meet in closed session to discuss such matters the substance of the closed session would be disclosed publicly only if it would not warrant an invasion of privacy or constitute a breach of the attorney client privilege.

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech that the Commission goes into Executive Session.

All voted in favor.

The Commission took a break at 2:05pm.

#### Return to Public Session

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech that the Commission return to Public Session. All voted in favor.

The Commission returned to Public Session at 2:53pm.

#### Resolution #13-24 to Upgrade Pilot James R. Britton to a Pilot of the Fifth Grade

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to pass Resolution #13-24 to approve the upgrade of Captain James R. Britton to a pilot of the Fifth Grade. The upgrade will become effective on October 1, 2013.

All voted in favor.

Adjournment

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech that the meeting be adjourned. All voted in favor.

The meeting was adjourned at 2:55pm.