

**Minutes of the Regular Meeting of The
New Jersey Maritime Pilot & Docking Pilot Commission
May 15, 2012**

The regular meeting of The New Jersey Maritime Pilot and Docking Pilot Commission was held on Tuesday, May 15, 2012 at One Penn Plaza East, 9th Floor, Newark, NJ 07105.

Commissioner Dacey called the meeting to order at 10:02am.

Pledge of Allegiance

Open Public Meeting Statement

Roll Call

Commissioner Timothy J. Dacey, present; Commissioner Charles Stapleton, present; Commissioner Stanley E. Wiklinski, present; Commissioner Charles Wowkanech, present.

Minutes of Prior Meetings

A motion was made by Commissioner Stapleton and seconded by Commissioner Wowkanech that the minutes of the April 17, 2012 regular meeting be approved

All voted in favor.

Treasurers Report

A motion was made by Commissioner Wowkanech and seconded by Commissioner Stapleton that the Treasurer's report dated May 2012 be approved.

All voted in favor.

Executive Director's Report

The Commissioners were given a copy of the Regulations that were adopted at the April 17, 2012 regular meeting. The regulations will become effective on May 21, 2012. Captain Sarubbi will coordinate with New York to make sure both states execute the new regulations simultaneously.

Captain Sarubbi updated the Commission on the status of the Commission's new office space. The Department of Community Affairs requested changes to the blueprints which will delay the project. The anticipated completion date is July 16, 2012. The Commissioners were given a copy of the timeline received from NJ Transit.

The Commissioners were given a copy of the April 19, 2012 response to the Governor's Authorities Unit memo requesting information regarding certain policies, employee compensation and benefits of the Commission.

As previously agreed upon, Captain Sarubbi reviewed the PortVision program that was presented at the Commission's February 21, 2012 regular meeting. Captain Sarubbi found PortVision to be useful, particularly for accident investigation, but due to its high cost, \$9,500 per year per subscription, and the availability of similar, less costly programs he recommended that the Commission not purchase PortVision.

As an alternative, Captain Sarubbi recommended an AIS program from Maritime Information Systems, Inc. Captain Sarubbi and Ms. Stuckey received a briefing from Maritime Information Systems, Inc. to review their AIS program. This company essentially provides the same service as PortVision and can also assist in the recreation of accidents at a much lower cost. The cost to subscribe to Maritime Information Systems is \$125 per month per user.

After discussion the Commission authorized Captain Sarubbi to get one subscription to Maritime Information Systems on a trial basis.

DAG Schwartz asked that she be allowed to look into whether the procurement process needs to be used prior to staff going any further. She will follow up with Captain Sarubbi.

Captain Sarubbi is scheduled to meet with the Governor's Authorities Unit on May 17, 2012 to discuss the Commission's goals and measures of success for the next two years. He asked Ms. Crifo to brief the Commission on what the Authorities Unit is looking for and what format should be used when reporting.

Ms. Crifo informed the Commission that this is a new program initiated by the newly appointed Director of the Authorities Unit to keep them better informed and help them gauge the performance of all Authorities and Boards.

Captain Sarubbi recently provided an article to the Commissioners regarding the Cosco Busan's incident of 2007. He

reminded the Commission that the pilot's cognitive abilities had been tainted by prescription drug use. Captain Sarubbi also pointed out that the Commission contracted with UMDNJ to review the physicals of New Jersey licensed pilots that are taking several medications to analyze them and provide an opinion on whether the cocktail of prescription drugs would affect the pilot's ability to function. This agreement did not work out very well because the turn around time was 2 months and the opinion received was generic. Captain Sarubbi informed the Commissioners that the staff is looking for a new provider.

Captain Sarubbi and Ms. Stuckey met with Dr. John Dellorso a Senior FAA Aviation Medical Examiner with offices at the Newark Airport. He also works with the New York Board of Commissioners to review any pilot physicals they may have any questions on. He seems to be in tune to what type of services the Commission would need. Dr. Dellorso will provide the Commission with a proposal. In the meantime staff will continue to research other physicians that may be able to provide these services.

Commissioner Dacey reminded the other Commissioners that they were told to contract with UMDNJ since it was a state agency and asked counsel to provide an opinion as to whether the Commission would have to go through the procurement process in order to contract with Dr. Dellorso.

Presentation on Waterways Management Program

LCDR Anne Morrissey, Chief, Waterways Management Branch of Coast Guard Sector New York briefed the Commission on the overall Waterways Management Program and current activities that are going on within the port. After which, there was a question and answer session.

Public Comment

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

There will be a meeting after the May 16, 2012 Harbor Ops meeting to discuss the rules for the next stage of the Shooters Island dredging project.

Captain Flannery wanted to publically thank Jim Divine from Port Newark Container Terminal for his support during the dredging and his sponsorship of the simulation exercises.

Andrew McGovern, President, New Jersey Sandy Hook Pilots Association:

The three Arthur Kill projects will be discussed at the dredging meeting on May 16, 2012. This will be the toughest part of the dredging project. This leg of dredging will be challenging and dangerous for the pilots.

Captain McGovern explained that as the dredging progresses restrictions are put in place and once the pilots get used to them and physically sees what can and cannot be done, the restrictions are adjusted. The main focus is to keep the economy flowing while the dredging continues but the ultimate goal is the safety of the port. The toughest part of the dredging will take place during the summer months since the weather is light and the contractors are willing to make adjustments.

Currently 57 applicants made it through the first step of the apprentice selection process. The next step is the psychological review and aptitude test.

Captain McGovern thinks it would be a great idea for the Commission to contract with Dr. Delloroso and would also like the contract to include the stipulation for the pilot's physicians to be able to call the doctor and consult with him prior to prescribing new medications. He stated that the pilots association regularly receives calls from pilots regarding new prescription medications.

The Port Authority has purchased six new buoys for the dredging zones. To date four of the six have been placed.

Comment from Captain Richard Wieners, Docking Pilot, Metro Pilots Association:

He expressed the concern of the pilots regarding the current dredging projects. They are concerned that because there is limited space available that there may be some occurrences that cannot be avoided or foreseen. He states that even though the pilots underwent the simulation exercises, no one can anticipate what will happen until the dredging actually begins.

The Commission assured him that the Prudent Mariner Rule will always apply; however, they do understand about the current dredging projects and will take that into consideration when investigating any future incidents.

Comment from Commander Jack Olthuis, Director of Training, Sandy Hook Pilots Association:

Commander Olthuis informed the Commission that the final phase in the dredging contract is to go back and complete the maintenance dredging. There are insufficient funds to complete all of the maintenance dredging so the Port Authority is prioritizing the areas that need to be brought back to fifty feet.

Comment from Ms. Genevieve Clifton, Manager, Maritime Resources:

Although the Public Services Announcements for Operation Clear Channel have been released, she has not seen any of them running.

The Port Jersey Channel is back up and running. The project is $\frac{3}{4}$ complete. They are trying to have the dredging complete by early summer.

The United States Department of Transportation has asked each state to come up with a maritime representative. New Jersey's Department of Transportation already has a representative.

Maritime Resources is sponsoring an offshore Wind Farm analysis survey to make sure the maritime areas have the services that they need.

While the Pulaski Skyway deck is being replaced, there are talks about providing a temporary ferry service from South Amboy to Manhattan.

New York will implement additional restrictions regarding the EPA Vessel Permits. This could be an issue of concern and have prompted several discussions.

Resolution #12-09 to issue a Deputy Maritime Pilot license to
Leonard M. Evans

A motion was made by Commissioner Wowkanech and seconded by Commissioner Stapleton to issue a Deputy Maritime Pilot License to Leonard M. Evans.

Commissioner Wiklinski proctored the exam of Captain Evans and reports that he passed each written portion of the exam with high marks and that his chart work was meticulous. He stated

that Captain Evans will be a welcome addition to the pilot service.

All voted in favor.

Swearing in of Captain Leonard M. Evans

Captain Evans was sworn in as a Deputy Maritime Pilot by Commissioner Stanley Wiklinski.

Committee Reports

A. Investigation Committee:

- I. **M/V Imari** - October 28, 2011 - Alission. This incident has been carried.
- II. **Stolt Innovation** - November 4, 2011 - Alission. Captain Sarubbi recommended that the commission find no fault on the part of the pilots. After discussion, the Commission has tabled this item for further review.
- III. **Maersk Wiconsin** - December 5, 2011 - Alission. This incident has been carried.
- IV. **Feyza** - December 28, 2011 - Allision. Captain Sarubbi recommended that the Commission find no fault of the part of the pilot. The Commission has asked that the Opinion & Order and future Opinion & Orders be revised to replace the word "Board" with "Commission" and also to make it clear that the Commission is voting on the recommendations of the investigator. A motion was made by Commissioner Stapleton and seconded by Commissioner Wowkanech to accept the recommendation. All voted in favor.
- V. **Stolt Confidence** - January 10, 2012 - Alission. This incident has been carried.
- VI. **Horizon Trader** - January 13, 2012 - Dragged buoy off station. Captain Sarubbi recommended that the Commission find no fault on the part of the pilot. A motion was made by Commissioner Stapleton and seconded by Commissioner Wiklinski to accept the recommendation. All voted in favor.
- VII. **CSCL Dalian** - March 31, 2012 - Power Loss. Captain Sarubbi recommended that the Commission find no fault on the part of the pilot. A motion was made by Commissioner Stapleton and seconded by Commissioner Wiklinski to accept the recommendation. All voted in favor.

VIII. **Skagen Maersk** - April 2, 2012 - Allision.

Captain Sarubbi recommended that the Commission find no fault on the part of the pilot. A motion was made by Commissioner Stapleton and seconded by Commissioner Wowkanech to accept the recommendation. All voted in favor. Captain Sarubbi also developed an Advisory to be issued to all pilots. This and all future Advisories will focus on lessons learned to help pilots avoid future incidents. There was some discussion regarding what current VTS requirement for vessels passing under the Bayonne Bridge. Captain Sarubbi pointed out the U.S. Coast Guard's Vessel Traffic Service (VTS) Manual states that vessels passing under the Bayonne Bridge must maintain a 2 foot air draft. This requirement is a VTS measure. Captains McGovern and Flannery pointed out that as a matter of standard practice vessels routinely pass under the bridge with less than a 2-foot air draft clearance and that the Coast Guard is aware of this practice. Captain Sarubbi was advised to clarify this information with the Coast Guard prior to the Advisory being finalized and distributed.

- IX. **Piltene** - April 15, 2012 - Possible grounding. This incident has been carried.
- X. **Cape Wrath** - April 20, 2012 - Allision with Bayonne Dry Dock. This incident has been carried.
- XI. **Carnival Miracle** - April 28, 2012 - Possible grounding. This incident has been carried.

Resolution #12-10 to Adopt an Operating Budget for FY13

The Commission reviewed the attached proposed budget for FY13. A motion was made by Commissioner Wowkanech and seconded by Commissioner Stapleton to pass Resolution #12-10 to adopt an Operating Budget for FY13.

All voted in favor.

New Business

Apprentice Training Report from Metro Pilots Association:

Captain Flannery reported that Metro requires its apprentices to ride 600 vessels and obtain 29 route extensions. He states that there is no formal training program and the apprentices are not assigned any duties. They work as Captains on the tug boats and

ride vessels during their time off. Captain Flannery gave a report on the activities of the following apprentices: Captain Karl Gadow began his apprenticeship on August 16, 2011, has ridden 260 vessels to date and has 18 of the required route extensions. Captain Kevin Walsh began his apprenticeship on January 17, 2012. He has ridden on 100 vessels to date and has 13 of his required route extensions. Metro's apprentices currently work a rotation of one week on/one week off. They are also required to undergo Bridge Resource Management with the tugboat companies every two years. There are no written procedures guiding the senior pilots on how to train an apprentice but the association feels that the 600 rides is training in itself. At the end of the two year apprenticeship Metro will evaluate the apprentice and whether there is a need to bring on another pilot before recommending they sit for their state license.

Captain Flannery has asked to have a discussion regarding their third apprentice in Executive Session. He will be required to submit a written report each month to the Commission's offices on the activities of Metro's apprentices.

Old Business

Staff reported on the following items:

Ship Information Recording System - This item has been carried.
Purchase of Live Ships Real Time Position Information - This item was discussed during the Executive Director's report.

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 Wowkanech and seconded by Commissioner Stapleton that the Commission go into Executive Session.

All voted in favor.

The Commission took a break at 11:28am.

Return to Public Session

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

The Commission returned to Public Session at 12:39pm.

Discussion Re: Executive Director (E.D.) Job Description

Commissioner Stapleton pointed out that he had several ideas that he thought should be included in the Executive Director's job description that would benefit the Commission and bring the Commission to a higher level.

Commissioner Dacey asked that he explain some of the duties he thought should be included in the job description.

Commissioner Stapleton pointed out the following functions:

- A. The E.D. should become well versed in the workings of State Government and the statute and develop a regular program of visiting Trenton to educate our legislatures and give them suggestions on things that need to be done. By doing this he could also keep the Commission informed with respect to what face the Commission has in Trenton.
- B. The E.D. could also "lobby" to get the budget language that removed the Commission from a statutory requirement corrected. This would be done under the guidance of the Commission and he would be given the names of the persons he should be contacting.
- C. The E.D. should get to know members of the state Executive Branch and get to know people at the Authorities Unit.
- D. In addition to making every effort to become familiar with the persons regulated by the Commission, the E.D. should also become familiar with shippers and others within the port community.
- E. The E.D. should look at developing requirements with respect to the pilots annual appearances.

They should be required to give an accounting to the Commission making the appearance a purposeful exercise.

- F. The E.D. Should be contacting other state commissions to find out how we stack up against them regarding the apprentice training program and testing procedures.
- G. There should be a specific role the Commission plays in harbor security and the E.D. should work with persons in Trenton to figure out what this role should be and develop a process to achieve it.

Commissioner Dacey stated that it is not the role of the E.D. travel to Trenton to educate the Legislatures. Trenton does not focus on Harbor Security at all. He pointed out that the maritime community is in the process of planning for Fleet Week and not one person from the state is involved in the planning of such an important event. He also pointed out that it is the position of the Commissioners to have a relationship with the Authorities Unit.

Commissioner Stapleton pointed out the fact that the Commission's presence in New Jersey is not well known. There is no formal face other than the E.D. to tell the Commission's story in Trenton.

He also feels is if the E.D. should not be responsible for doing accident investigations. There should be a speedy approach to the process and a proposal should be put together to hire someone to do the investigations which should be uniform and timely.

He reiterated his desire to see a review of apprentice standards and practices of both pilot groups. He feels is if there are jurisdictional issues that should be looked at and the best practices of Pilot Commissions throughout the country should be reviewed.

Commissioner Stapleton also wanted clarification on whether any Commissioner could communicate directly with staff or whether communication can only go through the President. He has many ideas that should be considered and has strong feelings about what the Commission can be but is not.

Commissioner Wiklinski feels that recent actions by Commissioner Stapleton have brought the Commission into a state of flux.

He reminded the Commissioners that several times during his tenure of 20 ½ years he has reached out to several Senators and offered to pick them up for the Harbor Inspection Tour with no response. He does not see any reason for the E.D. to attempt to brief the state legislature because they have no interest in the Commission.

The Commission has spent the last 20 years developing a selection process that works very well and he does not see the need to find out what other Commissions are doing to make us better. In his opinion, other commissions should be looking to New Jersey for guidance.

He feels as if it makes no sense to send the E.D. to Trenton several times a week. The Commission made an error in even creating the title E.D. as it is not an accurate description of what the job entitles. The position should be called something in the line of "Coordinator."

He would like to know what the topic of discussion in Trenton would be. The Commission was paid in the past for its expertise and for the state to put a \$100 label on it is insulting. How does the state plan to get the same quality of people to serve on the Commission. He feels as if there is a lack of leadership in the state legislature and the U.S. Government. The system is not perfect, but it is not as paid as Commissioner Stapleton points it out to be.

Commissioner Wowkanech expressed his disappointment in the recent actions of Commissioner Stapleton. He feels as if Commissioner Stapleton is more concerned with what he wants and not what is good for the Commission. The E.D. job description came out of the combined efforts of the Commission and it should be discussed by the Commission in a meeting forum prior to any one Commissioner attempting to change it. He is proud of the accomplishments of the Commission during his tenure as a Commissioner.

He also feels as if the Commission cannot use the E.D. to right wrongs made by the current administration. If Commissioner Stapleton is unhappy with the E.D. job description then it should be discussed among the Commissioners.

It is important that all the Commissioners continue to operate under the tradition of treating one another with respect. Any changes to policy should be discussed and communicated through

the President. There should always be a discussion, a vote and the outcome communicated through the President. Policy changes should not be done by one Commissioner.

Commissioner Dacey stated that in his nine years on the Commission the Commissioners have worked well as a team. He would like to see the Commission continue to work as a team and he would also like to see newly appointed Commissioners. The pilots want to see that they are supported, the Commission has recognition of what's going on and the Commissioners work together.

He suggested that Commissioner Stapleton put his ideas in writing for the Commission to review. With the advice of the Authorities Unit any changes will be made collaboratively.

He stated his disappointment that he is no longer able to go to the Port Security Conference in Washington, DC. He also feels that even with the limitations that have been placed on the Commission they are functioning well and would like to see the Commission continue to work together as a team with no internal problems.

When asked for an opinion, Ms. Crifo stated that in no way does the Authorities Unit determine the goals of the Commission but rather looks to help identify and achieve goals formulated by the Commission.

She stated her agreement to act as a liaison in helping to restore the Commissions budget authority and will ask for the current status.

Commissioner Wiklinski thanked Commissioner Stapleton for his actions in getting the pilot interviews moved to Executive Session.

Commissioner Wowkanech clarified that the job description of the E.D. will remain the same and any decision to change it will be done only with the consent of the full Commission.

Adjournment

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

The meeting was adjourned at 1:12pm.