

**Minutes of the Regular Meeting of The  
New Jersey Maritime Pilot & Docking Pilot Commission  
May 17, 2011**

The regular meeting of The New Jersey Maritime Pilot and Docking Pilot Commission was held on Tuesday, May 17, 2011 at One Penn Plaza East, 9<sup>th</sup> Floor, Newark, NJ 07105.

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

Pledge of Allegiance

Open Public Meeting Statement

Roll Call

Commissioner Timothy J. Dacey, present; Commissioner Thomas F. Daly, present; Commissioner Stanley E. Wiklinski, present; Commissioner Charles Wowkanech, present.

Minutes of Prior Meetings

A motion was made by Commissioner Dacey and seconded by Commissioner Wiklinski that the minutes of the April 19, 2011 regular meeting be approved.

All voted in favor.

Treasurers Report

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech that the Treasurer's report dated May 2011 be approved with amendments.

Mr. Licata was contacted by Ms. Nicole Crifo from the Governor's Authorities Unit the afternoon before the meeting informing him that the state is no longer reimbursing employees for CLE courses unless their position requires a law license, therefore the recent expenses incurred by Mr. Licata should be deleted from the Treasurers report. He also pointed out that the expense for lunch was deleted from the report since the Informal Hearing for Captain Boslet has been postponed until the June 19, 2011 regular meeting.

Commissioner Dacey expressed his displeasure at the decision. It worries him that the Governor's office had the treasurers report a week before the meeting but made the call the day before the meeting. He also pointed out that the funds used to operate the Commission does not come from tax payers and therefore has no direct impact on the state budget. He reminded

the Commission that Mr. Licata was assured the opportunity to return to the DAG's office if he chose to do so and the CLE courses are needed to keep his law license current.

Commissioner Daly accepted the proposed amendment to the Treasurers Report with regret.

The motion was put to a vote and passed unanimously.

### Executive Directors Report

The Commissioners were given a copy of a letter to Darren Gelber, Esq. postponing Captain Frank Boslet's hearing until June 21, 2011.

The Commissioners were given a copy of the return to work authorization for Captain Robert Flannery.

The Commissioners were given a copy of the letter that was sent to Kinder Morgan Terminal regarding the safety equipment they are requiring pilots to wear and the Commissions support of the pilots position on the safety equipment.

The Commissioners were given a copy of the agenda for the May 18, 2011 Harbor Ops meeting. Mr. Licata will attend the meeting.

The Commissioners were given a copy of a press release from the Connecticut Department of Transportation seeking apprentice marine pilot applicants.

Commissioner Wowkanech has agreed to contact Congressman Lobiando to ask for his assistance in getting the MOA with the Coast Guard finalized.

Mr. Licata has been contacted by a number of people expressing their concern regarding the recency rule proposal. After several conversations with pilots and their representatives Mr. Licata has recommended that the Commission make the following amendments to the proposal: reduce the required number of vessels from 60 to 26 in any six month period.

### Public Comment

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

There will be a meeting with the Coast Guard regarding the dredging in the Arthur Kill north of Shooters Island Reach.

The representatives from NOAA can not make the Harbor Ops meeting on May 18<sup>th</sup> however, they will be at the June meeting to discuss enforcement issues regarding the Right Whale regulations.

The series of videos that are being produced by Maritime Resources through a grant from Harbor Ops is almost complete. Two PSA's have been completed emphasizing Operation Clear Channel and will begin to circulate.

The Commission asked Ms. Nicole Crifo from the Governor's Authorities Unit to assist in getting the Marine Police on board to help with Operation Clear Channel.

There will be a tabletop AMSTEP exercise this summer.

Captain McGovern pointed out that in the Recency Rule Proposal there is no provision to accommodate those pilots that may be out on leave and then authorized to return to work. Mr. Licata pointed out that this issue could be addressed in the return to work authorization letter that is sent to the pilot.

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

The Annual Docking Pilots Association Meeting was held in Philadelphia in April. Among the speakers were Paul Kirchner, Admiral Cook, Tina Basset and Commissioner Thomas Daly. Captain Flannery felt that the conversations were good. Admiral Cook expressed his desire to see the time in which it takes a pilot to renew his federal license shortened.

As a result of the dredging simulation done in Vicksburg, the Coast Guard will do a test run with buoys in the Arthur Kill.

At a recent VTS Committee Meeting the issue of parameters at Bergen Point was discussed.

Comments from Ms. Genevieve Clifton, The Office of Maritime Resources:

The Vessel General Permit rule is coming into affect sooner rather than later. The bigger challenge is getting the two states (New Jersey and New York) on the same page. Maritime Resources is funding NJIT to look at the issue.

Comments from Ed Kelly, Executive Director, The Maritime Association of the Port of NY/NJ:

The City of New York released the Waterfront Act Agenda entitled "Vision 20/20 New York City Comprehension Waterfront Plan" from the New York Department of City Planning.

All states are allowed to add to the Federal Clean Water Vessel General Permit Law. New York has set a higher requirement than New Jersey. The two states must find a way to work in harmony.

There are a lot of people evaluating the Right Whale speed limits in the port.

Comments from Captain Lou Bettinelli, President, Interport Pilots:

The Recency Rule Proposal directly affects Interport's pilots. Some of his pilots work a rotation of two weeks on/two weeks off because they work in other ports. He is also quite concerned that the first time he sees the proposal is when he gets his agenda. He feels that it would be more productive if the Commission talks to the pilots before proposing such a rule. Although he appreciates the Commission's willingness to decrease the number of required vessels in a six month period, he feels that it would still be difficult for his group to meet the requirement. He feels that the pilots are self disciplining and would not accept a vessel on a route that he is not fully conversant with. He would like to see the Commission table the proposal until it can be discussed further. He feels that every pilot cannot be current in every area of the port and that it would be easier for the Commission to allow the pilots to handle the number of trips they feel necessary to remain current.

Comment from Commissioner Dacey:

The Commission has listened to what the pilots have had to say on this subject. It has been the consensus that one trip a month does not provide for serious recency. He also pointed out that piloting is a full time job, not a side job. The port can be congested and needs pilots that are up to date on the constant changes. He feels that an average of one trip a week is a fair compromise.

Comment from Andrew McGovern, President, the New Jersey Sandy Hook Pilots Association:

Captain McGovern expressed his agreement with Captain Bettinelli and would like to see the Commission circulate the specifics among the pilot groups before a rule gets to the proposal point. He would like to see more communication between the Commission and the pilot groups.

Comment from Commissioner Daly:

There will be a period for the public to make comments on the rule proposal. The Commission has expressed its desire to make changes when they receive comments that are reasonable. He also pointed out that although most pilots may be self disciplining that some can be influenced by economic incentive to take on a vessel even if he has not piloted the route in a while.

Comment from Captain Stephen Richer, Independent Docking Pilot:

He wanted to know what specific evidence the Commission had to support the claim or to suggest that pilots who are not able to produce 60 trips every 6 months are more likely to have an accident than pilots who would be able to produce those trips. He pointed out that the regulation would affect some of the more seasoned and skilled pilots and they will be forced out.

Captain Richter cited several examples in which these seasoned pilots would have trouble meeting the required number of trips in any given six month period. He feels that the amendment has only been proposed so that the Commission can give the appearance of being a proactive, significant body at a time when the Governor's office is looking to make cuts. Captain Richter made the following suggestions to the Commission: (1) Instead of increasing the required number of ships by 1000% he suggests a smaller increase of 100%, (2) The trips should not have to be performed by the pilot of record, but will count if you are on a vessel as an observer and (3) Piloting vessels in other ports should count.

He feels that the proposal is aimed at himself and Captain Biagi and feels as if he is the type of pilot the Commission should want to remain in the port. He also feels that the proposal will hinder the safety of the port and should be rejected or at the least tabled until there is time to carefully consider the impacts of the proposal and find other options that will not threaten so many skilled and experienced pilots.

Comment from Commissioner Wiklinski:

He has been concerned a great deal over the past ten months and feels that the defunding of the Commission is leading to the deterioration of something that took twenty years to build. The Commissioners' serve with dedication and pay attention to duty. Through the diligence of the appointed Commissioners a Commission was created that oversaw an outstanding group of maritime pilots and later on docking pilots. The move to bring docking pilots under state jurisdiction has eliminated many

disputes onboard vessels and contributed to a spirit of cooperation among all state licensed pilots.

He has noticed that there are many new faces sitting at the table and he would like to know who these people are and what they do in regards to the Commission's objective to ensure safe navigation within our ports.

He has written to many state representatives and has not received any responses. He has invited Senators to join the Commission on the annual Harbor Inspection Tour and has even offered to provide transportation. He feels that the Commission was defunded with little knowledge behind it and little understanding of what it does. He invited elected representative to come to a meeting to see what the Commission does.

A concern of the Commission is to provide for the safety of the persons who pilot vessels in our ports. One slip climbing a ladder, can lead to serious injury or death. It is the Commission's responsibility to ensure safety of navigation.

He feels that the Commission must get the attention of the leaders in the state. If this does not happen and the Commission deteriorates, the state will feel the brunt.

### Committee Reports

#### A. Audit Committee:

The Audit Committee met and went over the proposals that were submitted from the approved Cooperative Purchasing participants by the Division of Purchase and Property. All of the contractors possessed the experience, qualifications and ability to undertake and successfully complete the audit in a timely manner; therefore the Committee selected the contractor with the lowest bid, McEnerney, Brady & Company, LLC.

#### B. Investigation Committee:

- I. **Faust** - March 9, 2011 - Allision with Buoy - This incident is currently being investigated by Commissioner Daly and has been carried.
- II. **Grande Guinea** - March 10, 2011 - This incident is currently being investigated by Commissioner Dacey and has been carried.
- III. **Faust** - March 10, 2011 - Allision with Buoy - This incident is currently being investigate by Commissioner Daly and has been carried.
- IV. **Atlantic Cartier** - March 12. 2011 - Power Loss. Based on the attached investigation report, Mr.

- Licata recommended that the incident be closed and the pilot issued a letter of non-culpability. A motion was made by Commissioner Dacey and seconded by Commissioner Wiklinski to accept the recommendations in the report. All voted in favor.
- V. **YM Eminence** - March 27, 2011 - Power Loss - This incident is currently being investigated by Commissioner Daly and has been carried.
- VI. **Felixstone** - April 1, 2011 - Allision with Bayonne Bridge. Based on the attached investigation report Commissioner Dacey recommended that the incident be closed and both pilots issued a letter of non-culpability. A motion was made by Commissioner Wowkanech and seconded by Commissioner Wiklinski to accept the recommendations in the report. All voted in favor.
- VII. **CSAV Laja** - April 13, 2011 - Power loss. Based on the attached investigation report Mr. Licata recommended that the incident be closed and the pilot issued a letter of non-culpability. A motion was made by Commissioner Wowkanech and seconded by Commissioner Dacey to accept the recommendations in the report. All voted in favor.
- VIII. **Oleander** - May 5, 2011 - Allision - This incident is still under investigation by Commissioner Dacey and has been carried.

#### Resolution to Award Audit Contract

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to approve Resolution #11-06 to hire McEnerney, Brady & Company, LLC to perform an audit of the Commission's books.

All voted in favor.

#### Resolution to Approved Pilot Recency Rule Proposal

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to amend the rule proposal to change the required number of ships from 60 to 26 in a six month period.

All voted in favor

A motion was made by Commissioner Daly and seconded by Commissioner Dacey to pass Resolution #11-05 to propose amendments to N.J.A.C. 16:64-5.5(d).

All voted in favor.

This item has been tabled and will be discussed at the June 21, 2011 regular meeting.

Request for Authorization to Hire a Maritime Expert as a Full-Time Employee

This item has been tabled indefinitely.

Draft of FY2012 Budget for Discussion

Mr. Licata pointed out that changes were made to the budget and it is different than the one previously sent to the Commissioners. The changes eliminated in excess of \$100,000 in expenses.

Ms. Crifo asked the Commission not to vote on the budget, at this time so that the Authorities Unit would have time to review the revised budget.

Commissioner Dacey pointed out that the agenda was sent to the Governor's office 1 ½ week ago and if there was a problem they should have communicated it to the Commission's staff. He also reminded Ms. Crifo that it is the Commission's job to have an approved budget in place by July 1, 2011. He hopes that it does not fall through the cracks. He reiterated his objection to the Commission being asked to delete \$169 in CLE expenses from the Treasurers Report especially since the funds do not come from taxpayer revenue and does not affect the state budget. He is hoping to work cooperatively with the Authorities Unit and would like to have a budget in place when the law requires the Commission to have one. Commissioner Dacey also pointed out that a recent change in the interpretation of the law pertaining to the Commissions' contractual authority delayed the retention of an auditor.

Ms. Crifo pointed out that the agenda lists the budget as a discussion only item and the Authorities Unit did not expect the Commission to vote on it at the meeting. She also called Mr. Licata the day before the meeting to verify that it was a discussion only item.

A motion was made by Commissioner Dacey and seconded by Commissioner Wowkanech to table the FY12 Budget until the June 21, 2011 regular meeting.

All voted in favor.

Discussion Re. Adjustment of Pilotage Fees

This item has been tabled and will be discussed at the June 21, 2011 regular meeting.

### Old Business

Commissioner Daly asked that Live Ships Program be added to the list of on-going projects.

### New Business

Commissioner Daly was contacted by Sandy Hook with a request to allow the next two apprentices ready for licensure to be licensed by New York so they can be appointed to the LIS Board. He has asked Captain McGovern to provide the Commission with a pilot census to include what route each person pilots on. Once this information is provided, he would be willing to meet with Commissioner Hobbe, President of the New York Board to discuss the issue. He will then bring a recommendation to the full Commission to vote on.

On May 10, 2011, Commissioner Dacey rode as an observer on two vessels with Sandy Hook Pilot Captain Paul Klein. He provided the attached report of his experiences a copy of which will be placed in Captain Klein's file. He was impressed by the excellent performance of Captain Klein.

Commissioner Dacey attended a briefing at the World Trade Center site by Bill Baroni, Deputy Director of the Port Authority of New York/New Jersey. He spoke about the improvements that are going to be made to the Bayonne Bridge.

Commissioner Dacey informed everyone that May 21, 2011 is Maritime Day in Baltimore.

Commissioner Daly serves on the Board of the National Maritime Historical Society and noted that the annual meeting is in New Bedford, Mass.

Ms. Genevieve Clifton showed the Commission the two PSA's that were done in conjunction with Harbor Ops on Operation Clear Channel.

### 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, legal and investigation 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 go into Executive Session.

All voted in favor.

The Commission took a break at 11:49am.

#### Return to Public Session

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

The Commission returned to Public Session at 12:43pm.

#### Upgrade of Pilot H.F. Cavagnaro III from a Pilot of the Sixth Grade to a Pilot of the fifth Grade Part A

A motion was made by Commissioner Wiklinski and seconded by Commissioner Dacey to promote Harold F. Cavagnoro III to a Pilot of the Fifth Grade Part A to become effective June 1, 2011.

All voted in favor.

#### Upgrade of Pilot B.L. Foley from a Deputy Pilot to a first Grade Pilot

A motion was made by Commissioner Wiklinski and seconded by Commissioner Dacey to promote Brendan L. Foley to a First Grade Pilot to become effective June 7, 2011.

All voted in favor.

#### Adjournment

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

The meeting was adjourned at 12:45pm.