

## BOARD OF PILOT COMMISSIONERS

### Minutes February 27, 2003

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun regular meeting was held in the Board of Pilot Commissioners office, Pier 9 Suite 102, San Francisco, CA, commencing at 9:30 a.m. on Thursday, February 27, 2003, Commissioner Falaschi presiding. A quorum was present, including Commissioners Bayer, Lundeberg, Rosequist, Wagner, Welch and Winn. Also in attendance were Port Agent Captain McIsaac, Board Counsel Ray Paetzold, Executive Director Moloney and Secretary Alice Evans and various members of the public.

Request approval of Minutes of the January 23, 2003, regular Board meeting. The minutes were approved unanimously after being amended as follows: page 5, New Business #4., add a second paragraph.

“Commissioner Welch requested that the Board discuss the appropriateness of the Board conducting a security assessment covering the entire pilots’ operation. This will be added to next month’s agenda.”

Commissioner Welch noted that this item was not added to February’s agenda and requested it be added to the next Board meeting agenda.

#### Correspondence and Activities since the January meeting--Executive Director Moloney

1. The Board received a letter dated February 21, 2003, from State of California Department of Justice, Bill Lockyer Attorney General, granting the BOPC consent to the employment of counsel other than the Attorney General, for house counsel/advice and administrative litigation requiring an expertise in maritime law, pursuant to Government Code Section 11040.

#### Other Pilot Matters--Executive Director Moloney

1. The Board has received the manpower reports and statements for pilotage fees and surcharges collected from SFBP and Inland Pilot Slough through December 2002. Copies are available in the Board office.
2. The Board issued license renewals to Captains Atthowe, Cota, Greig, Hartshorn, Lobo, O’Laughlin, Roberts and Vilas during the month of February.

#### Port Agent’s Report--Port Agent Captain McIsaac

1. There are currently 59 licensed pilots. Three are NFFD:
  - Captain Hughes continues to recover from heart surgery;
  - Captain Wagner continues to recover from an ankle injury and subsequent surgery;
  - Captain Carlier continues to recover from a knee injury suffered when he fell off a pilot ladder;
  - Captain Coppo was FFD as of February 19;
  - Captain McIsaac was FFD as of February 3.

2. There was one 12-hour MRP violation on January 28 with a rest period of eight hours. There were three violations on January 31 with the shortest rest period being 11 hours. Two pilots were off the board, one was NFFD and the other was on comp. There were nine violations on February 1, with the shortest rest period being two hours and 45 minutes. There were three pilots off the board, one NFFD, one as acting Port Agent and one on comp.
3. The SFBP are providing piloting services on the Carquinez Bridge Project. There are a total of three vessels involved with eight pre-fabricated roadbed sections on each vessel. The first eight lifts have been completed and the second vessel is shifting into the Carquinez Strait anchorage February 27 to prepare for lift #9 on Sunday. When the lifts start 2-3 pilots are off the board, dedicated to the project.
4. The P/V GOLDEN GATE has been out of service since February 3, undergoing a major in-frame overhaul. She is expected to be back in service by the end of next week.
5. Through January 2003:

Bar Crossings	+10.2%
Bay Moves	+45.6%
River Moves	-15.9%
Total Moves	+14.2%
Gross Tons	+10.4%

as compared to the same period last year

Captain McIsaac noted that the SFBP is in the process of changing the period reported on to reflect a more representative comparison.

#### Unfinished Business

1. Open Incidents --Executive Director Moloney
  - a. M/V SEALAND PATRIOT, allision w/Buoy #5, SF Bar Channel, December 15, 2002, SFBP Captain C. Anderson -- Executive Director Moloney distributed copies of the Findings of Facts and gave the following report.

#### PROBABLE CAUSE

In the early evening of 15 December 2002, Capt Anderson boarded the M/V SEALAND PATRIOT at Oakland Berth 20 to pilot it to sea. The vessel got underway at 1830 and followed a tanker out the deep draft traffic lane north of Alcatraz at a distance of about three miles.

After the vessel entered the Golden Gate it encountered southerly winds of 35 knots, gusting to 50 knots.

As the vessel passed Point Diablo Capt Anderson noted that the vessel was running left of the track of the tanker. About that time he called the offshore pilot boat to coordinate disembarkation plans. He had observed by radar that another inbound tanker would be arriving at the pilot boarding area at the same time he would if he maintained his present speed. Since the pilot boat would be transferring several pilots to ride in with the inbound tanker, Capt Anderson agreed to reduce speed and allow the transfer without undo vessel congestion at the boarding area.

As the vessel entered the San Francisco Bar Channel, Capt Anderson reduced speed to maneuvering full ahead. This is a 12 knot speed but due to weather conditions, the vessel was only making 8 knots over ground.

Capt Anderson was aware that Bar Channel Buoy #5 light was extinguished and was watching for it. The vessel passed Buoy #7 at about 200 feet to starboard. Due to the weather conditions there was considerable sea clutter on the vessel's radar, precluding a definitive return from Buoy #5.

Capt Anderson shifted the radar to 12 mile scale to evaluate the traffic situation at the pilot station. When he looked back up he noted Buoys # 1 and 3 almost in line. He ordered the vessel's course adjusted to port by 7 °. Shortly thereafter a noise was heard and a crew member reported a buoy passing down the starboard side of the vessel.

The vessel proceeded to the pilot station. Once clear of the channel, Capt Anderson was unable to detect Buoy #5 by radar. VTS was notified and a short sea trial was attempted to see if any damage to the propeller could be discerned. This was inconclusive due to sea conditions. Between the Master and Chief Engineer it was decided to return to port to have the propeller inspected by a diver.

The inbound trip to Anchorage 8 was uneventful, but the deteriorating weather conditions in the bay required five attempts to safely anchor the vessel. As soon as the vessel was back in the bay, the Port Agent closed the San Francisco Bar to traffic until morning when weather conditions moderated.

## OPINIONS

1. Capt Anderson piloted the vessel to sea in conditions that were deteriorating and were of marginal safety.
2. He was aware of Buoy #5 being extinguished and was watching for it. He was able to clearly see Buoy # 7 as he passed it. Due to the weather conditions Buoy #5 was obscured on radar.
3. Capt Anderson reduced speed to avoid congesting the pilot transfer area. The reduced speed along with increasing wind conditions and a lack of visual or short range radar references allowed the vessel to be set to the north. As soon as he recognized the position of the vessel by sighting Buoys #1 and #3 he corrected the course.

## RECOMMENDATIONS

1. Close this case. No attributable pilot error. Despite being aware of Buoy #5 being extinguished, no one on the bridge of the vessel was able to see it until the vessel was upon it. The weather conditions were determined to be too hazardous for continued use of the Bar Channel and it was closed for the remainder of the night by the Port Agent.

It was moved and seconded to accept the report. Commissioner Falaschi asked for discussion. The Board discussed the part of the report that referred to "margin of safety". Port Agent Captain McIsaac gave an overview of the various events that lead to closing the Bar. After thorough discussion it was agreed to amend the motion to take the words "margin of safety" out of the report. Commissioner Falaschi asked if there were any

further discussion. Commissioner Welch recused himself from the presentation, participation and resolution of this IRC report as he is related to the pilot. There being no further discussion the motion, as amended, then passed with six yes votes and one abstention.

- b. M/V TAI SHAN HAI interaction w/ M/V POLAR ALASKA at Amorco Dock Martinez, December 21, 2002 -- Executive Director said this investigation is not complete and that it has gone beyond the 90 days and requested an extension. It was moved and seconded to extend the report until the next Board meeting. Commissioner Falaschi asked for discussion. There being no further discussion the motion passed unanimously.

Commissioner Falaschi noted that the Board continues to be proactive on educational issues and would welcome a walk through of the SFBP procedures regarding the opening and closing of the bar, the roles of the Coast Guard Captain of the Port and the Port Agent, and any other educational issues they deem beneficial.

- 2. Pilot Ladder reportable incidents --Executive Director Moloney gave the following report:

VESSEL	PILOT	DATE	DISCREPENCY
USNS SAMUEL L. COBB	CONEY	2/19/03	No combination ladder rigged

Executive Director Moloney said a copy of the report has been forwarded to the USCG.

- 3. Rules and Regulations Committee--Commissioner Welch--Rulemaking Calendar for 2003 -- Commissioner Welch said the Committee has not met and there is no report.
- 4. Finance Committee--Commissioner Winn--Results of Finance Committee meeting of February 27, 2003, (immediately preceding Board meeting) Pilot Vessel Surcharge rate (5.13 mils), reserve and expenditures -- possible recommendation to adjust surcharge rate; **possible Board action**

Commissioner Winn reported that the Committee met today at 8:30 a.m. The SFBP reported that the 2002 audit and financial reports are completed and copies will be available the week of March 3, and noted the following: Year 2002 compared to 2001, income from piloting was up 2.3%, gross revenue up 3.1%, expenses up 2.2%, and net income up 4.1%.

The Committee reviewed the pilot boat surcharge. As of the end of January 2003 there is a surplus of approximately 243.5K. It is anticipated that it will take about 10 months to deplete this surplus at current levels and the Committee recommends no action at this time. It was noted that the Committee continues to anticipate recommending an increase in the surcharge during the second quarter of 2003 to become effective July 1, 2003.

The BOPC monthly expenditures were reviewed and nothing unusual was noted. A quarterly comparison column will be added to the report.

The next Finance Committee is scheduled for 8:30 a.m., at the Board office, March 27, 2003.

5. Pilot Training Curriculum Committee--Commissioner Wagner--Report on Coast Guard rulemaking re Maritime Security: possible incorporation into BOPC training curriculum -- Commissioner Wagner said the Committee has not met due to scheduling problems and it is anticipated that a meeting will be scheduled before the next Board meeting.
6. Ad Hoc Committee on Trainee Selection--Commissioner Bayer--Report on public workshops held on February 6 and 25, possible recommendation for adoption of Board policy regarding requests by trainee selectees to defer entry into training program; **possible Board action**; status of review of trainee selection process

Commissioner Bayer reported as follows:

The Committee held further workshops on February 6 and 25 on what has been referred to as the "deferral issue." Notice of the workshops was sent to all candidates currently on the standby list as well as to all those requesting notice of these meetings. The minutes of the February 6 meeting summarize the discussion which was completed last Tuesday. Copies are available for your review.

One of the members appointed to the Committee, Captain Nyborg, was out of state (unavailable to participate). The Committee's recommendation is based on the unanimous vote of the remaining three members, which included Commissioner Lundeborg and Captain Melvin (who is chair of the Pilot Evaluation Committee), and myself.

The Committee's recommendation has the support of the Port Agent, who informed the Committee that Captain Nyborg would also support this recommendation.

After considering the needs of the training program and the importance of a candidate's commitment to successful completion, the comments from various candidates on the standby list, and the other matters listed in the minutes of the February 6 meeting, the Committee makes the following recommendations:

- (1) Acceptance Period - The Committee recommends the adoption of a finite period for the candidate to accept an offer to begin the contracting process for entry into the training program. The Committee believes that 5-business days should be sufficient for candidates to inform the Board of his or her decision. According to Board staff, the state contracting process will still provide the candidate with a minimum of two to three months to complete his or her current obligations and prepare to begin training.

The Committee also recommends that candidates be required to keep Board staff informed of the most expeditious means of contacting them and that they be informed of the acceptance period and the effect of failing to accept within that period.

- (2) Deferral Requests - The Committee recommends that any candidates requesting deferred entry into the training program be advised that deferred entry is not offered. If a candidate cannot (or does not) accept an offer to begin the contracting process as trainee, that opening in the training program will be offered to the next candidate on the standby list and the name of the candidate

who declined (or failed to provide the Board with a timely acceptance) will go to the bottom of the standby list.

The Committee believes that this policy will best serve the Board's need to ensure commitment on the part of each candidate and fairness to others on the standby list.

Prerequisites for maintaining eligibility while on the standby list, including meeting the Board's requirements for recency of experience, have been previously addressed and need not be adversely effected by these recommendations.

The Committee also believes that the Board's current policy of maintaining the list for three years (a policy adopted by the Board in March 2002) should remain unchanged, but will postpone any specific recommendations until further consultation with the Office of Examination Resources.

It was moved and seconded that the Board accept these recommendations and to commence the process for adopting these policies in accordance with all applicable rulemaking laws. Commissioner Falaschi asked for discussion.

The Board discussed the fact that this recommendation does not address what happens during the rulemaking process. Commissioner Bayer withdrew the motion and subsequently amended the motion as follows: it was moved and seconded to amend the motion to include "during the interim period the Executive Director will follow the deferral procedure as noted above to handle future possible deferrals in the training program." Commissioner Falaschi asked for discussion. Board Counsel was asked to advise regarding rulemaking requirements. There being no further discussion, Commissioner Falaschi asked for a roll call vote.

Commissioner Bayer	YES
Commissioner Falaschi	NO
Commissioner Lundeberg	YES
Commissioner Rosequist	NO
Commissioner Wagner	YES
Commissioner Welch	NO
Commissioner Winn	NO

The motion did not carry.

It was moved and seconded to vote on the original motion. Commissioner Falaschi asked for discussion. After further discussion, Commissioner Falaschi asked for roll call vote.

Commissioner Bayer	NO
Commissioner Falaschi	YES
Commissioner Lundeberg	YES
Commissioner Rosequist	YES
Commissioner Wagner	YES
Commissioner Welch	YES
Commissioner Winn	YES

The motion carried.

It was noted that the Executive Director would use this as guidance.

Commissioner Bayer reported that the Committee has scheduled a number of workshops to review the current trainee selection process and will report on the status and anticipated completion of that review at the next Board meeting. Currently, workshop dates are tentatively scheduled for March 18 and April 1, and will be properly noticed. Anyone wishing to be on the Committee's mailing list should contact Board staff.

7. Pilot Evaluation Committee--Capt. Melvin--Report on trainees' progress in training program

Captain Melvin, who was in the audience, reported that the trainees are progressing well and most have pilotage to the UPRRB and completing trips to Sacramento and Stockton. It is anticipated that the USCG pilotage exams will take approximately eight months for the trainee to complete.

8. Vessel Interactions--Review of incident frequency; Board's role in addressing the problem--Commissioner Falaschi/Executive Director Moloney -- no report

9. Authorize Board President and/or Executive Director to sign FY03/04 contracts as follows: Paetzold, White and Brodsky, up to \$300,000 and secondary legal firm (undetermined at this time) up to \$12,500; San Francisco Bar Pilots three year contract for training, travel and administrative services in conjunction with BOPC mandated training, (FY 03/04, 04/05 & 05/06) up to \$381,000 (subject to adjustment depending on number of trainees to be included in training); and miscellaneous office contracts (internet provider, Department of Consumer Affairs and equipment repair).

It was moved and seconded to authorize Board President and/or Executive Director to sign the above noted FY03/04 contracts. Commissioner Falaschi asked for discussion. Executive Director explained that a secondary counsel is necessary in case of a conflict of interest with the Board's main counsel. It was noted that these are routine contracting procedures. There being no further discussion the motion passed unanimously.

#### G. New Business

1. S/S MAUI, grounding entrance to Oakland Estuary, January 28, 2003 -- Executive Director Moloney reported that this incident is under investigation.
2. M/V CEFALONIA, grounding Webb Point, Light 47, San Joaquin River, February 22, 2003 -- Executive Director Moloney reported that this incident is under investigation.
3. Public Comment on matters not on the agenda

Mr. John Berge, Vice President PMSA, noted that the comment in the December 19, 2002, Board meeting minutes, stating that PMSA had advised that the Board's investigations and the IRC's reports continue to meet industry needs, might be misleading as PMSA's members had not participated in a survey. He stated that a survey could be conducted if requested. Commissioner Falaschi thanked Mr. Berge for his comment and noted it would be reflected in today's minutes.

Cdr. Dave Kranking, VTS USCG, introduced Lt. Chris Tribolet MSO USCG, Investigations, who noted that the Marine Safety Office would welcome the opportunity to participate in any educational issues that the Board feels may help the Commissioners have a better understanding of USCG operations in the Bay Area. Commissioner Falaschi thanked Cdr. Kranking and Lt. Tribolet and said the Board would contact the MSO office.

4. Proposals for additions to next month's agenda -- there were none.

Schedule next regular meeting -- the next Board meeting is scheduled for March 27, 2003, at 9:30, in the Board office Pier 9, Suite, 102, San Francisco, CA. The Finance Committee meeting is scheduled for 8:30 a.m., the same date.

Adjournment -- the meeting was adjourned at 11:45 a.m.

Respectfully submitted,

Alice A. Evans  
Secretary