

BOARD OF PILOT COMMISSIONERS

Minutes June 24, 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, June 24, 2003 Commissioner Falaschi presiding. A quorum was present, including Commissioners Bayer, 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 June 3, 2003 regular Board meeting. The minutes were approved unanimously after being amended as follows: page 5, lines 5 and 6 following recommendations sections, change "the circumstances of this grounding" to "repetitive problems with the CEFALONIA", and "to forward" to "to consider forwarding"; delete the last sentence The Board...; Page 6, Finance Committee, line one, change April 4 to "April 24". Page 7, #7. line 5, change "a" to "are".

Correspondence and Activities since the June 3 meeting--Executive Director Moloney

1. The Board received a letter dated June 13, 2003 from John P. Gunderson, M.D. regarding the evaluation of Captain Donald Hughes.
2. The Board forwarded a letter dated June 17, 2003 to Capt. Gerald Swanson, USCG Marine Safety Office regarding the M/V CEFALONIA, grounding, Webb Point, Light 47, San Joaquin River, February 22, 2003.
3. The Board received a letter dated June 19, 2003 from SFBP Captain McIsaac, Port Agent regarding the recommendation to authorize additional trainees.

Other Pilot Matters--Executive Director Moloney

1. The Board has received the manpower reports and statements for pilotage fees and surcharges collected from SFBP through April 2003 and Inland Pilot Slough through May 2003. Copies are available in the Board office.
2. There are no license renewals during the month of June.

Port Agent's Report -- Port Agent Captain McIsaac -- possible recommendation to authorize additional trainees; **possible Board action re same**

Captain McIsaac reported as follows:

1. There are currently three pilots NFFD;
Captain Hughes continues to recover from heart surgery.
Captain Wagner continues to recover from an ankle injury and subsequent surgery.
Captain Simenstad underwent shoulder surgery on June 3. At this point the length of his recovery is unknown.
2. There were two 12 hour MRP violations on June 8 with the shortest rest period being 11 hours. Three pilots were off the board, two NFFD and one on bereavement leave; there was one MRP violation on June 18 with a rest period of 11.5 hours. Two pilots were off the board NFFD; there were nine MRP violations on June 20 with the shortest rest period

being 9 hours. Five pilots were off the board, two NFFD and three in manned model training; there were 11 MRP violations on June 21 with the shortest rest period being 9.5 hours. Five pilots were off the board, two NFFD and three in training.

There was a concern noted regarding the June 21 MRP violations. Captain McIsaac added that it was a busy day, the ships were bunched and that the MRP violations were not necessarily due to the mandated training.

3. Port Agent McIsaac referred to the letter dated June 19, 2003 forwarded to the Board from SFBP regarding the recommendation to authorize additional trainees. At the Manpower hearing a year ago, the BOPC increased the number of pilots authorized from 56 to 60. Currently, the SFBP is operating with 58 active pilots and an additional pilot whose long-term status is unresolved. There are three trainees in the training program. Presuming they progress as expected, they will be licensed at some point in the future. He then recommended three additional trainees be appointed to the training program.

The Board members noted that while the information was very informative, the Board had not had sufficient time to review and evaluate all the data to make an informed decision. The Board requested the Port Agent to present more information in the format listed in Section 237(d), perhaps in graph form, and forward this information to all Commissioners for review before the next Board meeting. Further action was postponed until the next Board meeting.

Unfinished Business

1. Open Incidents --Executive Director Moloney

- a. S/S MAUI, grounding, entrance to Oakland Estuary, January 28, 2003 SFBP Captain J. Weiss -- Executive Director reported that the IRC completed its investigation and concluded that a hearing is needed and filed an accusation with against Captain J. Weiss. He then asked Board Counsel to continue.

Board Counsel Paetzold gave an overview of the Procedure for License Suspension & Revocation Hearings, explained the respective roles of the Office of Administration Hearings (OAH), the Administrative Law Judge (ALJ) and Board Counsel, and outlined the normal timeframe leading up to the hearing.

The Board's first responsibility is to determine whether it will hear the case with an ALJ or assign the case to be heard by the ALJ alone. It was discussed that if the hearing is held with an ALJ, the ALJ presides over the hearing and the Board determines all findings of facts. If the hearing is held with an ALJ alone, the Board must make its decision based on transcripts and the ALJ's recommendation. After thorough discussion of both options and the amount of time involved, it was moved and seconded that the Board would hear the case with an ALJ. Commissioner Falaschi asked for further discussion. It was discussed that during the hearing, provisions may be necessary for Commissioners to carry on with regular business commitments. There being no further discussion the motion passed unanimously.

Board Counsel reminded all Board members not to discuss the accusation with anyone so they are able to make an unbiased decision based solely on the evidence admitted at the hearing.

- b. M/V BREMAN BRIDGE, allision with OAK Berth 25-26, April 4, 2003, SFBP Pilot Captain R. Nyborg -- Executive Director distributed the findings of facts and gave the following report:

PROBABLE CAUSE

On the afternoon of April 4, 2003, Capt Russell Nyborg boarded the container vessel BREMAN BRIDGE at the offshore pilot station to pilot it to Oakland berth 25/26. The inbound transit was uneventful.

The designated berth is one of the corner berths in the outer harbor. It adjoins berth 30 at an oblique angle. Another large container vessel was moored in berth 30.

The twin screw (3,500 bhp) conventional tug *Defiant* was brought in on the port quarter and put a line up. The vessel was turned to parallel the berth and using the tug and bow thruster pushed in to the berth.

The afternoon winds were gusting up to about 20 knots and were more than the tug could overcome. Capt Nyborg was able to control the bow using the bow thruster, but could see that the tug was not able to adequately control the stern. As the starboard quarter was about to touch down on the fendering, he directed the rudder hard right and the engine slow ahead. This minimized the impact, but the stern did land hard and fractured a stringer in the fendering system. There was no other damage.

OPINIONS

1. Weather conditions were not out of the ordinary.
2. Capt Nyborg was using the tug that had been assigned to the job. In retrospect he considered that it did not have the backing power that was required to hold the vessel off the berth. A more powerful tug was needed considering the wind conditions.
3. Capt Nyborg's orders as the vessel closed the pier were responsive to the situation and minimized the impact. His timing was slow by a matter of seconds.

RECOMMENDATIONS

1. Close this case. Minor pilot error. The tug assigned to assist was not powerful enough to hold the stern of the vessel up in the gusting wind. The hard right rudder and slow ahead engine order were proper responses given the proximity of the vessel immediately astern, but were applied a little too late.

It was moved and seconded to accept the IRC report. Commissioner Falaschi asked for discussion. The Board discussed the reasons that the pilot did not receive the proper size tug for this size of vessel. It was noted that Marine Exchange does the Bullard pull testing for the tugs. The SFBP guidelines were discussed. Port Agent McIsaac noted that the SFBP Guidelines is an internal document generated by the pilots and used as a customer service tool for Agents. The pilot has the authority to decline a tug if he or she feels that it is inadequate for the job. It was discussed that this tug had not been Bullard pull tested and that this was the first move for which Captain R. Nyborg utilized this tug. Executive Director stated that the minor pilot error was attributed to timing. There being no further discussion the motion passed unanimously.

- c. M/V ASANTE, allision with Par 5, Richmond, CA, April 27, 2003, SFBP Pilot Captain A. Kelso -- Executive Director Moloney distributed the findings of facts and gave the following report:

PROBABLE CAUSE

Capt Kelso joined the motor bulk freighter ASANTE at 2205 on April 26 at Richmond Berth 5A to shift it into the stream to allow other vessel movement in the vicinity, then shift back to Berth 5B. The tug on the port bow was made up with two headlines; the tug on the port quarter was made up with one headline.

At about 2230 the vessel was backed out of the berth and down Richmond Harbor to the vicinity of the Arco terminal and held position there. A tanker that was berthed at Richmond Terminal 3, undocked and moved and moved past the stationary ASANTE to IMTT. Once it was clear, Capt Kelso had the tugs push the vessel across the channel to Berth 3 and pinned it there. The tanker moored at IMTT, farther up the Santa Fe Channel than Berths 5A and 5B. Once the tanker was moored, the bulk freighter that was in Berth 5B (around the corner from 5A) got underway, outward bound. It cleared ASANTE's position at about 0005 and Capt Kelso began the shift into the recently vacated Berth 5B.

The turn at Berth 5A and 5B is particularly sensitive. There is a steel I-beam on the first and sharpest corner. About a hundred feet farther into the turn is another corner but with only about a 10° change.

As the ship was turning into Berth 5B, Capt Kelso had the forward tug pushing the bow to starboard and the after tug pulling the stern to port. Due to the confines of the berth he was holding the vessel about three feet off the sharp corner of the berth. With the turn about 85% complete and the vessel mostly past the sharp corner. Capt Kelso directed the forward tug to stop. There was no response. He tried again and still received no response and could see propeller wash from the tug. He checked communications with the after tug and received a response.

Capt Kelso asked the master to sound five short blasts on the whistle. At about the second or third blast the forward tug's propeller wash stopped and the operator came on the radio and said "I'm back with you". At that time the vessel contacted the inside corner of the dock and drifted back out about two feet. The remainder of the undocking was uneventful. The forward tug later told Capt Kelso that he had inadvertently keyed a channel 16 button on his radio handset which changed it off the working channel. As soon as he heard the whistle, he recognized the problem, stopped the boat and and corrected the channel.

There was minor damage to the dock, the most visible being a raised board adjacent to the crane rails.

OPINIONS

1. The cause of this incident was the forward tug operator accidentally keying the wrong button on his VHF radio handset, changing it off working channel. It caused him to miss an order from the pilot. When the danger signal was sounded he stopped his tug and corrected the radio problem.
2. The clearances in Berth 5B are so tight for a vessel of this size that there is no margin for error. It is fortunate that the error did not occur earlier in the turn where the vessel would have set down on the exposed I-beam.

RECOMMENDATIONS

1. Close this case, no pilot error. Capt Kelso did a commendable job in shifting the vessel off one berth, holding it for multiple ship movements in close proximity, then redocking the vessel in one of the most challenging berths in the Bay Area.

It was moved and seconded to accept the IRC Report. Commissioner Falaschi asked for discussion. Commissioner Rosequist requested Board staff to forward a letter of concern to the appropriate people requesting a review of communication procedures that led to the incident. There being no further discussion the motion passed unanimously.

2. Pilot Ladder reportable incidents --Executive Director Moloney said there are no reportable incidents.
3. Rules and Regulations Committee--Commissioner Welch -- Report on status of pending rulemaking -- Commissioner Welch noted no report from the Committee. Commissioner Welch requested BOPC review the training for the Conflict of Interest Code Form 700. Board Counsel Paetzold reported that the proposed rulemaking re Training Program Eligibility List (Amending Section 213 to Division 2 of Title 7, C.C.R.) OAL Notice File No. Z-03-0403-02 was forwarded to OAL June 11, 2003. OAL may take 60 working days to review. Commissioner Welch requested that the Board information binder be updated with current regulations.
4. Finance Committee--Commissioner Winn--Results of Finance Committee meeting of June 24, 2003 -- Commissioner Winn reported that the Committee met today and that the SFBP reported a continued strong year, everything but expenses are up; expense-to-gross income ratio 27%. SFBP continues to recover much of the \$203K owed to them by Sunrise Shipping, which has closed its doors. It is anticipated all but about \$3,000 of that amount will be collected.

The Committee continued its review of SFBP annual audit. Board Counsel reported on the Board's response to PMSA's January 20, 2002 request for an independent audit. The issue is scheduled for review in 2004.

SFBP reported that the Pilot Vessel Surcharge surplus at the end of May was \$156K and was projected to be \$145K by the end of June (as compared to \$100K previously projected). Accordingly, SFBP's Mr. Ken Levin recommended that the Pilot Vessel Surcharge rate increase authorized by the Board at its June 3, 2003 meeting be postponed until further review at the next Finance Committee meeting. The Committee concurred with Mr. Levin's recommendation. This item will be placed on the Committee's agenda. Notification will be sent by SFBP that the surcharge will not be increased by July 1, 2003 as authorized at the last Board meeting.

The Committee reviewed the BOPC monthly expenditures report and nothing unusual was reported. The next Finance Committee meeting is scheduled for July 24 at 8:30 a.m.

5. Pilot Training Curriculum Committee--Commissioner Wagner -- report on STCW requirements re pilot/pilot trainees; develop possible recommendation re STCW - related training for trainees -- Commissioner Wagner reported that the next Committee meeting is scheduled for July 15 at 11:30 a.m., at the office of Tesoro Maritime Co., 150 Solano Way, Martinez, CA. It will be open to the public. Directions will be included in the notice.

6. Ad Hoc Committee on Trainee Selection--Commissioner Bayer -- Report on review of trainee selection process; recommendation to contract with consultant on weighting simulator exercise portion of selection process; **possible Board action to authorize same** -- Commissioner Bayer reported that the Committee met June 3 and recommends contracting with HZ Assessments (which worked with the Office of Examination Resources on last year's exam) to advise on re-weighting the simulator portion of the trainee selection process. It was noted that Consumer Affairs Contracting office in Sacramento has recommended a single contract to include development of the revised simulator exercise. This item will be postponed to the next meeting to include HZ Assessments' entire scope of work. The next Committee meeting will be scheduled after the next Board meeting.
7. Pilot Evaluation Committee--Capt. Melvin--Report on trainees' progress in training program -- Captain Melvin reported that the trainees are progressing well. He then extended the Committee's appreciation to the USCG for its efforts to complete the trainees' pilotage endorsements. Two of the trainees will begin riding with Pilot Evaluation Committee members.

Commissioner Falaschi noted that the Board continues to leave the next two items 8. and 9. on the agenda as placeholders in case any issues arise that need to be discussed. The Board discussed the need and again agreed to leave these on for the interim:

8. Vessel Interactions--Review of incident frequency; Board's role in addressing the problem--Commissioner Falaschi/Executive Director Moloney
9. Security assessment covering pilots' operation -- Commissioner Falaschi

New Business

1. USCG Marine Safety Office, possible Investigation Department presentation -- postponed at the MSO's request until the next Board meeting.
2. Authorize Board staff to purchase current Jane's Fighting Ships (\$567) and Merchant Ships (\$630) Yearbooks -- Executive Director reported that these books are used in the investigations by the IRC. It was moved and seconded to authorize purchase of current Jane's Fighting Ships (\$567) and Merchant Ships (\$630) Yearbooks. Commissioner Falaschi asked for discussion. There was no further discussion. The motion passed unanimously.
3. Public Comment on matters not on the agenda

Commissioner Falaschi extended the Board's appreciation to Cdr. Kranking, Commanding Officer of VTS, for his strong support of the Board during the past three years. His change of command is July 21. Cdr. Kranking thanked the Board and said it had been a pleasure to be able to participate in the Board's activities.
4. Proposals for additions to next month's agenda

Commissioner Welch requested that the Board consider adding one or more classes to the Pt. Revel contract to include the trainees and the few pilots that may be over the mandated timeframe. This item will be added to next month's agenda.

Schedule next regular meeting -- the next regular Board meeting is scheduled for July 24, 2003 at 9:30 a.m., in the Board office Pier 9, Suite 102, San Francisco.

Adjournment -- the meeting was adjourned at 11:20 a.m.

Respectfully submitted,

Alice A. Evans
Secretary