

**Minutes**  
**January 26, 2006**

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 January 26, 2006, Commissioner Falaschi presiding. A quorum was present, including Commissioners Lundeborg, Miller, Sitts, Wainwright and Wagner.

Request approval of Minutes of the December 15, 2005 regular Board meeting. The minutes were unanimously approved.

Correspondence and Activities since the December meeting including update on status of appointment to fill dry-cargo position on Board -- Executive Director Moloney

1. The dry-cargo position remains vacant.
2. The Board received a letter dated January 10, 2006 from Emard Danoff Port Tamulski & Paetzold LLP advising of Board counsel's name and address change from the Paetzold Law Firm effective January 1, 2006.
3. The Board forwarded a letter dated January 25, 2006 to James M. Humes, Chief Assistant Attorney General requesting approval to contract for Private Maritime Legal Counsel.
4. The Board forwarded to DCA Software Management Program the BOPC software inventory.

Other Pilot Matters -- Executive Director Moloney

1. The Board issued license renewals to SFBP Captains Anderson, Carlier, Carlson, Coppo, Crowell, Gates, Gjevik, Hand, Kelso, Keon, MacLachlan, McIsaac, Plant, Rioux, Robinson, Teague and Waugh during the month of January 2006.
2. The Board has received the manpower reports and statements for pilotage fees and surcharges collected from SFBP through November 2005 and Inland Pilot Slough through December 2005.

Port Agent's Report -- SFBP Captain Bill Greig

1. Captain Greig reported with regret that Captain Kevin Murray of the Columbia River Bar Pilots was lost at sea January 9. He was boarding off an outbound bulker and went in the water. His body was recovered three days later. May he rest in peace.
2. Captain Jim Shanower remains non-fit-for-duty after being injured while boarding off the M/V CLEAMAR January 9, 2005. Captain Peter Crowell suffered a dizzy spell while preparing to undock a vessel at the Richmond Long Wharf. He was attended by the Chevron EMT Squad. We transported him to the emergency room, he was checked out and released. He remains NFFD while we are waiting for further medical diagnosis. Captains John Carlier and Larry Teague are not-fit-for-duty for reasons not related to piloting.
3. Minimum Rest Period Exceptions:  
During the month of December there were 9 MRP exceptions.  
12/23 6 ranging from 9.6 hours to 11.1 hours  
12/24 3 ranging from 11.4 hours to 11.9 hours with 1 NFFD and 1 Comp  
Captain Greig advised of a new format to report future MRP exceptions.

4. Pilot boats:  
P/V GOLDEN GATE was down 12/21 to replace an oil cooler and on 1/13 to replace a starter. Both of these were unplanned. The P/V SAN FRANCISCO blew a generator on 1/23 and will be out of service until 2/4.
5. Statistics: YTD vs. three-year average:
 

Bar Crossings:	+7.7%
Bay Moves:	+2.8%
River Moves	+11.2%
Total Moves	+7%
GRT	+15.2%
6. Rate Negotiations: SFBP have met with Industry representatives on several occasions since May 3, 2005 to negotiate a new rate. The meetings have been cordial and productive; however, we have not yet come to an agreement. We will continue to meet.
7. Spot Bill: SFBP is starting the process to introduce a placeholder bill to carry rate language. We are adding the word "allision" after the word "collision" in Section 1100 of the Harbors and Navigation Code. The timeframe is: 1/27 Legislative Counsel, 2/14 an author is found and 2/24 the Bill is introduced.

#### Unfinished Business

1. Open Incidents -- Executive Director Moloney
  - a. M/V SAGA TUCANO antennae contact with Hwy 680 Bridge and UPRRB, December 9, 2005.
  - b. M/V STAR HOYANGER interaction with M/V GOLDEN ARROW, Stockton #19 & 20, December 9, 2005.

Executive Director Moloney reported that both incidents remain under investigation.

2. IRC Procedures -- Review investigation procedures and guidelines used by IRC to resolve piloting incidents -- Commissioner Lundeberg

Commissioner Lundeberg reported that he had been tasked to present to the Board and public a report of the IRC Procedures and that he, Executive Director Moloney and Board Counsel Paetzold would go over the IRC Procedures. An outline was distributed to the Board members and audience. Copies are available in the Board office.

#### Legal Authority (Board Counsel Paetzold)

- (A) Composed of 1 Public Member + Exec. Director.
- (B) Responsibility to review all reports of (1) Misconduct; (2) Navigation incidents involving pilots/inland pilots; (3) Other matters for which license may be suspended/revoked.
- (C) Shall investigate and prepare written report  
May call witnesses  
Shall act fairly and impartially  
Shall not discuss with Board until final action taken.
- (D) IRC may exercise its discretion to declare a reported incident as a "non-incident" if there is clearly no pilot error. (If appearance of pilot error, investigation and written report required.)

- (E) IRC's authority limited to: (1) Prefer accusation recommending suspension or revocation of license; (2) Enter into written stipulation with pilot on terms acceptable to both parties (must be approved by Board counsel); (3) Issue Letter of Warning; (4) Counsel pilot; (5) Take any other action provided by guidelines; (6) Close without further action.
- (F) Contents of written report specified by law.
- (G) Once accepted by Board, entire report is available to public EXCEPT: (a) report by the pilot; (b) confidential report by investigator.
- (H) Report required to be submitted to Board within 90 days unless extension granted.
- (I) Investigation reports retained minimum of 10 years or as long as pilot is licensed.

Procedures (Commissioner Lundeberg and Executive Director Moloney)

- (A) Pilot Incident Report
  - (1) Pilot required to notify Port Agent
    - "As soon as possible, duties permitting"
    - "By the most rapid means available"
  - (2) When Port Agent becomes aware of incident Port Agent "shall immediately notify" Executive Director
  - (3) Other sources
- (B) Initial Investigation
  - Investigators - how selected
    - location
    - vessel expertise
    - rotation
  - Incident Investigation Check List
  - Sample Investigation Report (DELTA PRIDE)
- (C) Initial IRC Evaluation
  - Executive Director provides results of initial investigation by e-mail or fax
  - IRC discuss by phone or in person, agree on further investigation, scheduling meeting with pilot
- (D) Factors considered in determining root cause
  - Pilot Incidents Factors Check List
- (E) Factors considered if corrective action required
  - (a) severity of misconduct
  - (b) danger to public
  - (c) number and frequency of prior incidents involving pilot error (note 5-year limit on use of stipulations)
  - (d) nature and extent of injuries, property damage or harm to environment
  - (e) length of time pilot licensed
  - (f) prior corrective action imposed on pilot
  - (g) degree to which proposed action likely to prevent recurrence
  - (h) corrective action already taken by pilot as result of this incident
  - (i) degree of negligence
  - (j) other mitigating or aggravating circumstances
- (F) Meeting with pilot
  - (Pilot provided with draft Findings of Fact in advance of meeting with IRC)
  - Discuss pilot's view of incident
  - Identify/resolve facts in dispute
  - Identify root cause and contributing causes of incident
  - Identify what can be done to avoid similar incidents in future
  - Assess factors to determine appropriate corrective action

- Inform pilot of IRC's proposed action
- (G) Guidelines for corrective action
  - §210(f) - examples
    - Failure to comply with navigation laws
      - min. - reprimand
      - max. - 1 - 3 mos suspension
    - Negligently performing navigation duties
      - min. - reprimand
      - max. - 2 - 6 mos suspension
    - Failure to file timely written report
      - min. - reprimand
      - max. - 2 - 4 mos suspension
- (H) Report to Board
  - Facts
  - Probable cause
  - Potential contributing factors (include those considered and ruled out) (fatigue, environmental, tugs, ship's equipment and crew, communication difficulties, etc.)
  - IRC's conclusion and intended resolution
- (I) Board's role
  - "Accepts" report or returns matter to IRC for further action
  - If Accusation filed, Board decides whether to hear case with ALJ or have ALJ hear it and provide Board with his/her findings, conclusions and recommended sanctions, if any
  - Appeal - to Superior Court - independent review
  - Summary suspension - if Board determines that public interest requires license to be summarily suspended,
    - max. 40 days pending a hearing
    - must serve accusation on pilot within 6 days

Commissioner Falaschi asked if there were any questions or comments from the public and Board members. The Board discussed the assets of formal training and meeting with the USCG Marine Safety Office to enhance their investigative skills. The IRC will consider these suggestions and will explore in-house training with Capt. Reynolds, who has considerable training in investigating techniques. Commissioner Falaschi thanked the IRC for the thorough and informative report.

3. Pilot Ladder reportable incidents -- Executive Director Moloney reported that on January 11 and 12, 2006 the pilot ladder on M/V PHOENIX was not in compliance with SOLAS regulations. These incidents were reported to the USCG. This vessel is constructed with a sponson that extends the length of the main deck and which projects 0.5 meters past the shell plating. The sponson tapers to meet the shell plating 2 meters below the main deck. A Yokohama Fender was placed between the shell plating and the pilot ladder in an attempt to give the pilot ladder some support. The Yokohama Fender still allowed the pilot ladder below the fenders to swing.

Port Agent Captain Greig also reported that due to the unusually calm weather, the pilot was able to board the ship. The following day the USCG reported that they instructed the crew that the ladder must rest firmly against the side of the ship and that the ship agreed to do so. When the pilot sailed on January 12, the ladder was the same as on arrival. Capt. Greig said that while the pilot was able to board off in calm seas, this ladder is dangerous and unacceptable for normal conditions at the offshore pilot boarding area. The Charterer's representative forwarded a drawing of a proposed solution that was implemented in Seattle. The BC Coast Pilots reported that the ladder arrangement was found unacceptable. They had the option to board

from a different position. The SFBP do not have that option. The Charterer representative was again contacted and advised that SFBP would not board an unsafe ladder and that the only interim solution would be to send a pilot to Long Beach to ride the vessel up the coast. SFBP offered to take the Charterer's representative out to sea upon the next arrival to attempt boarding the vessel. SFBP will be happy to look at the new ladder arrangement; however, SFBP believes that the only solution is a structural modification to the ship. The Captain of the vessel proposed as a solution that he transit to and from sea without a pilot; however, that would be in violation of law which requires a pilot for those waters.

The Board agreed to call a Special Board Meeting for February 6, 2006 to hear from all interested parties and to address suspected safety standard violations involving pilot transfer arrangements on the M/V PHOENIX. A copy of this notice will be sent to the vessel agent.

4. Rules and Regulations Committee -- Commissioner Wainwright - proposed Committee agenda for 2006 – Commissioner Wainwright reported that the proposed Committee agenda for 2006 was reported at last month's Board meeting and that a Rules & Regulations Committee meeting would be noticed in the near future.
5. Finance Committee -- Commissioner Sitts -- Report on January 26, 2006 Committee meeting -- Commissioner Sitts reported that the Committee met today and reviewed SFBP November Income Statement. It was noted that the year-end statements are in the audit stage and will be submitted at a later date. No unusual items were noted. The BOPC fund condition was reviewed. One line item was noted to replace BOPC computers. This item will be added to next month's agenda for possible Board action to upgrade computers. The next Committee meeting is scheduled for February 23, 2006 at 9:00 a.m.
6. Pilot Training Curriculum Committee -- Commissioner Wagner -- Report on January 12, 2006 Committee meeting -- possible recommendation re curriculum for Manned Model Training -- Port Revel, France; possible recommendation -- travel expenses for manned Model Training -- Business class service -- **Possible Board action re same**

Commissioner Wagner reported that the Committee met January 12, 2006 to review the manned model training provided by various facilities worldwide, including those in Poland, Australia, France and the United Kingdom. After full consideration, the Committee concluded that the training provided by Port Revel continues to best meet the Board's training requirements. Port Revel has trained over 5,000 experienced pilots and captains since 1967 (mainly from the USA, Canada and Europe). Courses are tailored to reproduce local navigation conditions. Instructors are highly experienced maritime pilots. The fleet of 9 models is the biggest of any manned model facility. Port Revel offers 2 escort tugs operated by a real tug master at the pilot's orders. The newest addition to the fleet is an AZIPOD model. The 10-acre lake is most versatile with very little wind interference, more shallow areas, a wave and current generator, and a DGPS tracking system which allows for accurate debriefing of the exercises performed. The costs are approximately 11,100 Euros per pilot (depending on the exchange rate, up to \$17,000 US per pilot.).

The Committee unanimously recommends and it was moved and seconded that the Board President and/or Executive Director be authorized to sign all necessary documents to contract with Port Revel Shiphandling Sogreah Consultants to continue providing the manned model training for the next 5-year cycle beginning July 1, 2006, in fulfillment of the requirements of Section 215(b)(1) of the Board's mandated training requirements. Commissioner Falaschi asked for comments from the public and for discussion. There were no comments from the public and no further discussion. The motion passed unanimously.

Commissioner Wagner also reviewed travel arrangement for pilots to attend the manned model training. The reasons supporting business class travel, including the need to arrive rested for this intense training and to return rested to resume pilotage duties, continue to exist. Travel is contracted through the SFBP office to ensure the lowest business class service is purchased through group ticketing.

The Committee unanimously recommends and it was moved and seconded that the Board President and/or Executive Director be authorized to sign all necessary documents to contract with the SFBP for business class air travel and associated costs for pilots to attend Board mandated manned model training in Port Revel, France for the actual cost of the pilots' travel not to exceed \$6,500 per pilot. Commissioner Falaschi asked for comments from the public and for discussion. There were no comments from the public and no further discussion. The motion passed unanimously.

7. Pilot Evaluation Committee -- Capt. Melvin -- Report on January 18, 2006 Committee meeting - report on trainees' progress – Captain Melvin reported that the Committee met January 18. A classroom session was held by SFBP Captain Miller. All trainees are progressing as expected. Captain Rocci started training December 15, 2005. The next PEC meeting is scheduled for February 8, 2006 at 10:00 a.m.
8. Pilot Power Committee -- Commissioner Wagner -- Report on results of January 3, 2006 Committee meeting

Commissioner Wagner reported that the Committee met at the Board office to review the results of the December 2005 Pilot Retirement Survey, as well as the pilot power data assembled for the last Committee meeting held in September 2004.

The survey indicated that 12 pilots will possibly retire over the next 3 years. Therefore, the Committee concluded that this information supports the Board's decision to proceed with the administration of the pilot trainee selection testing, which is currently scheduled for early May 2006.

Port Agent Capt. Greig informed the Committee that updated pilot power data for the categories listed in Section 237(d) of the Board's regulations for the period August 2004 through December 2005 could be compiled and summarized by early March.

The Committee tentatively scheduled a further meeting for Wednesday, March 15, 2006 at 10:00 a.m. at the Board office to review the updated 237(d) data to be provided by the SFBP. The Committee will also develop initial recommendations for the number of trainees to enter the pilot trainee training program following the Board's acceptance of the test results later this year.

9. Pension Committee -- Commissioner Miller -- Report on results of January 24, 2006 Committee meeting to consider request by SFBP Captain James L. Shanower, for disability determination under Harbors & Navigation Code Sect. 1164 and to develop recommendations -- **Possible Board action re same**

Commissioner Miller reported that the Committee met with Captain Shanower on January 24, 2006 to review Captain Shanower's medical evidence and service history and the requirements of the Harbors and Navigation Code. Having duly considered all the evidence, the Committee recommends that the Board make the following determinations in response to Captain Shanower's request:

- (1) There is sufficient, competent medical evidence to conclude that Captain Shanower is “disabled” within the meaning of the San Francisco Pilot Pension Plan due to residual limitations from a crush injury to his right lower leg sustained on January 8, 2005;
- (2) The date of disability, for purposes of calculating his pension benefits under that plan is January 18, 2006, which is the date of the letter from Captain Shanower’s treating physician in which he described the nature and extent of Captain Shanower’s injuries and his subsequent treatment and in which he declared Captain Shanower permanently not-fit-for duty as a pilot. Dr. Charles Calza, a physician retained by the Board, has reviewed the evidence and concurs in the opinion;
- (3) Captain Shanower began service as a Board-licensed pilot on January 14, 1987, and was authorized to pilot under the authority of that license for 19 years and 0 months; thereby entitling him to 19 “full years of service” for pension purposes;
- (4) The last year prior to Captain Shanower’s disability was 2005;
- (5) Captain Shanower is entitled to receive the benefits for a disabled pilot as set forth in HNC §1163 beginning April 1, 2006.

It was moved and seconded to adopt the Pension Committee’s recommendation. Commissioner Falaschi asked for comments from the public and for discussion. There were no comments from the public and no further discussion. The motion passed unanimously.

Commissioner Falaschi thanked SFBP Captain Shanower for his dedicated pilotage service for the past 19 years.

10. Vessel Interactions -- Executive Director Moloney -- no vessel interactions to report.
11. Pilot Security -- Commissioner Falaschi -- item continues as a place holder
12. Ad hoc Committee for Pilot Fitness -- Commissioner Falaschi -- status of appointments of committee members -- no report, as the Board awaits appointment to fill the remaining industry vacancy on the Board.
13. Pilot Identification Cards - Executive Director Moloney -- waiting for further response from Sacramento.

G. New Business

1. M/V YM FOUNTAIN, possible allision with Buoy #1 Main Ship Bar Channel December 22, 2005.
2. M/V PELOPONESIAN PRIDE, allision with Buoy #5 Oakland Outer Harbor, December 23, 2005
3. M/V NAVIOUS ACHILLES, possible grounding San Joaquin River Light 58, January 6, 2006

Executive Director reported items 1., 2., and 3. remain under investigation.

4. Pilot Trainees – feasibility of providing Workers Compensation coverage for trainees -- Commissioner Miller and Executive Director Moloney expect to report on availability and expense for possible Workers Compensation coverage for trainees at the next regular meeting. Trainees currently do not have Workers Compensation coverage.
5. Authorization for Board President and/or Executive Director to sign the following contracts: FY06/07 contracts for maritime legal services with Emard Danoff Port Tamulski & Paetzold, LLP for up to \$300,000 and Farbstein & Blackman, APC up to \$30,000; FY06/07 miscellaneous office contracts; SFBP 3-yr Contract for Trainee Training Administrative services for up to \$20,000 per year -- **Possible Board action re same**

It was moved and seconded to authorize Board President and/or Executive Director to execute all necessary documents for renewing or entering into the following contracts: FY06/07 contracts for maritime legal services with Emard Danoff Port Tamulski & Paetzold, LLP for up to \$300,000 and Farbstein & Blackman, APC up to \$30,000; FY06/07 miscellaneous office contracts; SFBP 3-yr Contract for Trainee Training Administrative services for up to \$20,000 per year. Commissioner Falaschi asked for comments from the public and for discussion. There were no comments from the public and no further discussion. The motion passed unanimously.

6. Public Comment on matters not on the agenda -- there were none.
7. Proposals for additions to next month's agenda -- there were none.

Schedule next regular meeting -- A Special Board Meeting is scheduled for February 6, 2006 at 9:30 p.m., in the Board office Pier 9, Suite 102, San Francisco to address the pilot ladder arrangement on the M/V PHOENIX.

The next regular Board meeting is scheduled for February 23, 2005 at 9:30 p.m., in the Board office Pier 9, Suite 102, San Francisco. The Finance Committee will meet prior to this meeting at 9:00 a.m.

Adjournment -- the meeting was adjourned at 11:15 a.m.

Respectfully submitted,

Alice A. Evans  
Secretary