

Minutes

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 25, 2007, Commissioner Falaschi presiding. A quorum was present, including Commissioners Miller, Soares, Wagner and Wainwright. Also present were SFBP Port Agent Captain McIsaac, Board Counsel Paetzold, Executive Director Moloney and Secretary Alice Evans.

Request approval of Minutes of the December 14, 2006 regular Board meeting. The minutes were unanimously approved.

Correspondence and Activities since the December meeting -- Executive Director Moloney

1. The Board received a letter dated December 15, 2006 from Office of Administrative Law forwarding the 2007 Rulemaking Calendar and Legislative Reporting Requirements.
2. The Board received an approval letter dated January 4, 2007 from Department of Finance to increase the current Operations Surcharge from 2.0 percent, to 2.1 percent, effective January 1, 2007, and then to 2.4 percent effective July 1, 2007.
3. The Board forwarded a letter dated January 10, 2007 to Mr. James M. Humes, Chief Deputy Attorney General, requesting authorization for the Board to continue contracting for private maritime legal services.

Other Pilot Matters -- Executive Director Moloney

1. The Board issued license renewals to SFBP Captains Anderson, Carlier, Carlson, Coppo, Gates, Hand, Kelso, Keon, Maclachlan, McIsaac, Plant, Robinson, L. Teague and Waugh during the month of January 2007.
2. The Board has received manpower reports and statements for Pilotage fees and surcharges collected from SFBP through November and Inland Pilot through December 2006.

Port Agent's Report -- SFBP Captain Peter McIsaac

1. Not-fit-for Duty: Captain Welch has been NFFD since January 1 while being treated for a non-pilot related condition; Captain Alden has been NFFD since January 17 while being treated for a shoulder condition that may be related to climbing pilot ladders; Captain M. Hoburg was NFFD from January 12 -18 while recovering from a non-pilot related condition.
2. Recommended Minimum Rest Period Exceptions: There were 13 in December: 4 occurred when 2 pilots were pulled for pilot business and 2 on comp; 3 occurred when 1 pilot was NFFD, 1 pulled personal, 1 on bereavement; 1 occurred with 1 pilot pulled personal and 1 riding for recency; 5 occurred with 1 pilot NFFD, 1 pulled personal, 1 riding for recency. The minimum time off was 9.2 hours.

3. Bar Closure: On December 27 heavy weather at the station forced the Port Agent to close the bar for 5-hours. In the middle of the night a front had passed and the wind shifted from the south to northwest and increased to gale force. At 0500 we were unable to board a 900' loaded tanker on the last of the flood tide. We intended to try again at daylight but conditions worsened and the tanker captain did not want to turn around. Knowing that it was going to get worse once the ebb started I contacted the Captain of the Port, pilots and vessels involved and informed them that he would try again toward the end of the ebb. At 1045 the tanker was successfully boarded and the bar was reopened.

The UPRR Bridge was shut down from approximately 0200 until 1100. Unfortunately they did not inform VTS or pilot dispatch until an up-bound pilot called for a lift from the Carquinez Bridge at about 0430. This is being reviewed by VTS to see if any new procedures need to be implemented.

4. Medical emergency: On January 12 while outbound past the Golden Gate Bridge Captain Morgan Hoburg became suddenly and violently ill. He was able to slow the ship and start the turn to head back into the Bay. He was unable to communicate with VTS or SFBP dispatch for about 10 minutes due to the severe nausea. Captain Plant, who had just finished working, was dispatched to the vessel and assumed the con when he boarded outside the Golden Gate. The SFFD EMTs were waiting for Captain Hoburg when he arrived at Pier 9. At the hospital he was diagnosed with either the Noro virus, which is contagious, or severe food poisoning. It was later determined based on the course of the ailment that Captain Hoburg had suffered a form of extreme food poisoning. He was examined by a Board approved physician and given a FFD effective January 18.

In this time of heightened security and constant communication there was a real concern that something catastrophic had happened to the vessel and or the pilot. Everyone involved in this emergency including Captains Hoburg and Plant, VTS and the SFBP dispatcher, handled a difficult situation in a professional manner to ensure it did not escalate.

5. Pilot Vessels: P/V SAN FRANCISCO -- one scheduled down day to repair a turbo leak; P/V GOLDEN GATE --two unscheduled down days to repair a cracked main engine expansion tank.

<ol style="list-style-type: none"> 6. <u>2006 Billed Vessel Moves compared to 2005</u> 	<ol style="list-style-type: none"> 6. <u>2006 Billed Vessel Moves compared to 3-year average</u>
Bar Crossings +8.6%	Bar Crossings +12.7%
Bay Moves +29.3%	Bay Moves +31.8%
River Moves 0.0%	River Moves +10.4%
Total +11.9%	Total Moves +16.0%
GRT +13.9%	GRT +21.0%

Unfinished Business

1. Open Incidents -- Executive Director Moloney
 - a. M/V PACIFIC SUCCESS, allision with Berth Pier 4, Port Chicago, September 10, 2006, SFBP Captain H. Kenyon
 - b. M/V IOANISS THEO, allision with Richmond Berth 5A, September 14, 2006, SFBP Captain M. Simenstad
 - c. M/V POLAR CALIFORNIA, allision with fishing boat off Pt. Blunt, October 29, 2006

Executive Director Moloney reported that the IRC requests an extension for incidents a., b., and c. listed above. Incident a., requires meetings with two expert witnesses, b., unable to schedule meeting with pilot and Board staff continues to be fully engaged in the process for seeking approval for a Spring Finance Letter (as reported under the Finance Committee report below.)

It was moved and seconded to extend the IRC reports for incidents a., b., and c., listed above until the next Board meeting. Commissioner Falaschi asked for comments from the public and discussion. There were no comments from the public and no discussion. The motion passed unanimously.

2. Pilot Ladder reportable incidents -- Executive Director Moloney reported that there are no reportable incidents.
3. Rules and Regulations Committee -- Commissioner Wainwright -- Proposed Rulemaking Calendar for 2007

Commissioner Wainwright referred to a copy of the 2007 Rulemaking Calendar and asked for suggestions or deletions or changes in priority. There were no suggestions, deletions or changes in priority. Board staff will forward the calendar to the Office of Administrative Law to fulfill the Legislative Reporting Requirement. It was noted that a Committee meeting would be scheduled in the near future.

4. Finance Committee -- Commissioner Falaschi -- Report on January 25, 2007 Committee meeting -- including possible recommendations to amend BOPC's expenditure authority to accommodate increased expenses related to pilot trainee training, fiduciary and actuarial study; possible recommendations to increase reserves in support of same; possible recommendations to further adjust rates for Board Operations Surcharge (currently 2% increasing to 2.1% eff. 1/1/07 and 2.4% eff. 7/1/07), Pilot Vessel Surcharge (currently 4.5 mils), Pilot Trainee Training Surcharge (currently \$7/trainee/move) and/or Pilot Training Surcharge (currently \$20/move increasing to \$30/move eff 7/1/07) -- **possible Board action re same**

Commissioner Falaschi referred to Commissioner Wainwright who chaired today's meeting. Commissioner Wainwright reported that Commissioner Miller and Executive Director Moloney met with personnel from the Department of Consumer Affairs and Department of Finance and clarified the Board's relationship with DCA and DOF. The Spring Finance Letter was the main subject of discussion and steps necessary to reach reserve goals required

Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun

by DOF. The need to increase the Pilot Trainee Training Surcharge from \$7.00 per trainee per move to \$9.00 per trainee per move was discussed in detail to reach the reserve goals recommended by DCA to support the requested increases in the Boards expenditure authority as set forth in the SFL. It was moved and seconded to increase the Pilot Trainee Training Surcharge from \$7.00 per trainee per move to \$9.00 per trainee per move effective February 1, 2007. Commissioner Falaschi asked for comments from the public and discussion. SFBP Captain Roberts inquired if this increase and SFL covers the anticipated stipend increase to \$5,000 effective 7/1/07. Executive Director answered in the affirmative. There were no further comments from the public and no further discussion. The motion passed unanimously.

5. Pilot Training Curriculum Committee -- Commissioner Wagner said there is no report.
6. Pilot Evaluation Committee -- Capt. Roberts -- Report on January 17, 2007 Committee meeting, status of trainees and of preparation for possible trainee selection examinations in August 2007; possible recommendations to commence advertising for new trainee selection process, set Trainee Selection Exam dates, application cut off date and other action necessary to commence trainee selection process pursuant to Title 7, California Code of Regulations Section 213 -- **possible Board action re same**

Capt. Roberts reported that PEC met on January 17. Seven Trainees were interviewed individually. The Trainees range in time in the program from 2 years to 18 months to 1 year, and in the case of the 4 latest trainees, 2 weeks. All are doing well and progressing at their own pace. I have no recommendation to the Board at this time, although I do expect to have a recommendation in the near future.

Some of the projects that the PEC are working on include: preparation and review of a new Trainee Handbook; off-site training for pilot trainees; updating parameters for pilot continuing professional development program; preparation for the new trainee selection process in August.

The PEC also held a New Trainee Orientation meeting on Dec. 28th. This was attended by our four new Trainees, myself, and the entire PEC committee. The 4-hour orientation was conducted on a more formal basis than in the past. It included a presentation by Capt. Sam Hartshorn on Pilot boat and Pilot ladder safety, and a discussion by Mr. Ray Paetzold on BOPC Rules and Regulations. We expect to hold another orientation on or about May 1st for the three additional trainees.

Executive Director Moloney advised that all efforts to be ready to conduct the trainee selection examinations at the California Maritime Academy during the week of August 13, 2007 appear to be on track. In order to commence advertising for these examinations, he requested the Board to approve an application cut-off date of June 15, 2007.

Based on past experience, this should allow sufficient time for interested qualified individuals to learn about the exam dates, get their applications in in time, for the Executive Director to review the applications and supporting documentation and inform the applicants of their eligibility to take the exam, and for eligible applicants to make arrangements to be ashore and available to take the examinations as scheduled.

It was moved and seconded that the application cut-off date be set for June 15, 2007 for trainee selection examinations to be held at the California Maritime Academy during the week of August 13, 2007. Commissioner Falaschi asked for comments from the public and for discussion. There were no further comments or discussion. The motion passed unanimously.

7. Pilot Power Committee -- Commissioner Wagner -- Report on January 10, 2007 Committee meeting -- including possible recommendations to the Board to authorize contracting with additional pilot trainees for entry into training program effective April 1, 2007 and July 1, 2007 -- **possible Board action re same**

Commissioner Wagner reported that the Committee met January 10 to consider last year's data compiled by the SFBP pursuant to Section 237(d) of the Board's regulations to determine the adequacy in the current number of pilots.

The Committee concluded that the data shows no need to decrease the number of pilots at the present time. The number of vessel movements continues to increase at an annual rate of about 10%, however, there are too many variables to conclude that the number of pilots should be increased at this time. Therefore, the Committee intends to meet again in early July to review the data for the first six months of 2007. The Committee will try to determine if there is a trend and whether a hearing to change the number of licensed pilots is warranted.

The Committee also reviewed the results of the December 2006 retirement survey. Four pilots that retired at year's end 2006 were not included in this survey. The survey indicated that seven pilots anticipate retiring by year's end 2007, two more by year's end 2008, and two more by year's end 2009, for a total of 11 anticipated retirements. Therefore, the Committee's earlier recommendation to train additional trainees to fill these projected vacancies is still warranted. The Committee previously recommended seven trainees to start January 1, 2007, which would have brought the total to 10 trainees in the program.

Currently there are 58 pilots, two less than the state mandated 60. There are seven trainees in the training program. According to HNC Section 1171.5, trainees have a minimum of one year and a maximum of three years to successfully complete the training program. One trainee has 2 years in the program, one trainee has 1½ years, and one trainee has 13 months. Four trainees just began their training this month. The current plan to add 3 more trainees April 1st and 3 additional trainees July 1st continues to be supported by the results of the recent survey and the Section 237(d) data.

The Committee strongly recommends that the Board continue its efforts to obtain the necessary expenditure authority and proceed with the contracting process in keeping with that plan.

The Committee further recommends that an updated retirement survey be mailed in time to receive the results at the next Committee meeting, which will be scheduled for early July, as soon as Section 237(d) data through June 2007 becomes available.

It was moved and seconded to authorize the Board President and/or Executive Director to contract with three (3) pilot trainees for entry into the training program effective April 1, 2007 and three (3) trainees for entry into the training program effective July 1, 2007. Commissioner Falaschi asked for comments from the public and discussion. It was noted that the contracts timeline to allow 60 working days moves the start date to May 1, 2007. The motion was amended as follows: *to authorize the Board President and/or Executive Director to contract with three (3) pilot trainees for entry into the training program effective April 1, 2007 or as soon thereafter as possible and three (3) trainees for entry into the training program effective July 1, 2007.* There were no further comments and no further discussion. The motion passed unanimously.

8. Pension Committee -- Commissioner Miller -- Report on January 11, 2007 Committee meeting; including possible recommendations regarding options for selecting/contracting with new fiduciary and for actuarial study and re proposal for Pension Plan Rulemaking (commence process leading to Notice of Proposed Rulemaking) -- **possible Board action re same**

Commissioner Miller reported the Committee met January 11 and gave the following report:

The status of obtaining authority to contract with a third-party fiduciary and to proceed with an actuarial study was addressed. Briefly, it appears that, at least as far as the Dept. of Finance is concerned, the Board will not need to obtain additional expenditure authority for these items as funding for these expenses is directly through the pension surcharge. Accordingly, we are working with the Dept. of Consumer Affairs, which provides contracting services to the Board, to ensure that the contracting experts agree and to then proceed with the next step in the selection and contracting process.

With regards to the actuarial study, a market survey was mailed to a number of potential candidates to assess the level of interest and potential cost range. To date, there has been relatively little response and follow-up efforts are planned.

Proposed Rulemaking: The committee completed its work on the proposed rulemaking to define certain terms in the statutory pension plan administered by the Board through its fiduciaries. The recommendations of the committee are summarized in Sections A, B and C of the spreadsheet. *(A copy of the spreadsheet is attached to and made a part of these minutes. Additional copies are available in the Board office.)*

The committee recommends that the past practice of interpreting the statutory terms related to pilotage "service" for purposes of calculating pension benefits under the plan be continued, and that the term "service" be defined to include all time that a pilot held a license and was authorized to pilot, with certain specified exceptions, and that the "six months equals a year" provision in the Code continue to be interpreted as a rounding rule.

Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun

The committee does not support the more restrictive approach proposed by PMSA, which would limit pilot "service" for benefit purposes to the performance of certain specified statutory duties and require each pilot to document at least six months of such service annually.

The committee does recommend that an administrative procedure be included in the rulemaking that would require the Port Agent to certify annually that each pilot performed his or her full share of duties. The details of such a report, including procedures for correcting any inaccuracies, will need to be developed during the formal rulemaking process. (The requirement for all pilots to perform their full share of duties unless prevented by illness or other cause satisfactory to the Port Agent and the Board is in current regulation at Section 219(b).)

The committee also completed its work on the proposed rulemaking for disability determinations under the Code. The committee's recommendations are summarized in Section D of the spreadsheet.

The committee recommends that the next step in the rulemaking process be commenced as soon as practicable through the Board's normal rulemaking procedures. A copy of those procedures are attached to the spreadsheet. Ordinarily, the next step would be for the Rules and Regulations Committee, through a series of public workshops, to develop the specific regulatory language and supporting rulemaking file, obtain the approval of the Office of Administrative Law, and publish the proposed rulemaking in order to commence the formal public comment period.

Accordingly, on behalf of the Pension Committee, I hereby request a motion to accept this committee's report and to assign this matter to the Board's Rules and Regulations Committee to proceed with the normal rulemaking process. It should be recognized that the Board, by doing so, does not, and cannot, take a position on the final rule until the public comment period has been closed and the Board has had an opportunity to discuss and debate the issues presented in the course of that rulemaking. Today's requested motion is to proceed with the next step to continue to move the rulemaking forward through its orderly process.

It was moved and seconded to assign this matter to the Board's Rules and Regulations Committee to proceed with the normal rulemaking process. Commissioner Falaschi asked for comments from the public and discussion. There were no comments and no discussion. The motion passed unanimously.

9. Vessel Interactions -- Executive Director Moloney -- said there were no vessel interactions to report.
10. Pilot Security -- Commissioner Falaschi said there is no report.
11. Ad hoc Committee for Pilot Fitness -- Commissioner Falaschi said this remains as a placeholder.

12. Pilot Identification Cards -- Executive Director Moloney – status of federal proposal for Transportation Worker Identification Credential (TWIC). Executive Director said there is no report.
13. Ad Hoc Committee on Pilot Safety -- Commissioner Falaschi said this remains as a placeholder.

New Business

1. Election of Officers -- possible Board action to elect President and Vice President. Commissioner Falaschi nominated Commissioner Miller as President and Commissioner Lundeberg as Vice President. It was moved and seconded to accept the nomination of Commissioner Miller as President and Commissioner Lundeberg as Vice President. There were no further nominations and the nominations were closed. Commissioner Falaschi asked for comments from the public and discussion. Commissioner Falaschi commented that Commissioner Miller and Board staff have taken on several difficult issues and that these issues have been addressed in a very effective manner and expressed his belief that Commissioner Miller will be a good leader for the Board to go forward. There were no other comments and no further discussion. The motion passed unanimously.
2. Authorization for Board President and/or Executive Director to sign the following contract: FY 06/07 and 07/08 contract with COMIRA (previously HZ Assessments) for development and administration of the written and simulation examinations for the Pilot Trainee Selection Process -- **possible Board action re same**

It was moved and seconded to authorize Board President and/or Executive Director to sign the following contract: FY 06/07 and 07/08 contract with COMIRA (previously HZ Assessments) for development and administration of the written and simulation examinations for the Pilot Trainee Selection Process. The maximum amount under the contract is \$23,475.00 over the two-year period. Commissioner Falaschi asked for comments from the public and discussion. There were no comments or discussion. The motion passed unanimously.
3. M/V DA YA HAI, grounding vicinity of Riverview San Joaquin River, January 10, 2007 -- Executive Director Moloney reported that this incident is under investigation.
4. Public Comment on matters not on the agenda -- Executive Director Moloney also reported that there was a possible incident involving a possible allision of the M/V QE2 with Pier 35, January 23, 2007. This possible incident is under investigation.

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

Schedule next regular meeting -- Set 2007 Board meeting calendar

The next regular schedule Board meeting is scheduled for February 22, 2007 at 9:30 a.m.
(The Finance Committee meeting will be at 8:30 a.m.)

Adjournment -- The meeting was adjourned at 10:40 a.m.

Respectfully submitted,

Alice A. Evans
Secretary