

Minute  
February 28, 2008

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 28, 2008, Commissioner Miller presiding. A quorum was present including Commissioners Johnston, Osen, Soares, Tate, 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 January 24, 2008 regular Board meeting. The minutes were unanimously approved.

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

1. The Board forwarded a letter to Mr. Genest, Director Department of Finance (predated 3/3/08) regarding the audit of the basic financial statements as of June 30, 2007.
2. The Board forwarded a letter to David S. Chaney, Chief Deputy Attorney General, dated February 20, 2008, regarding 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 Atthowe, Greig, Hartshorn, Hoburg, O'Laughlin, Pinetti, Roberts, Vilas, and Wagner during the month of February 2008.
2. The Board received manpower reports and statements for Pilotage fees and surcharges collected from SFBP through December and Inland Pilot Captain Slough through January 2008.

Port Agent's Report -- SFBP Captain Peter McIsaac

1. NFFD:  
Captain Simenstad is NFFD while recovering from shoulder surgery  
Captain Morgan Hoburg is NFFD while being treated for a thyroid condition  
Captain Frank Hoburg was FFD effective 2/27 after being treated for pneumonia
2. Recommended Minimum Rest Period Exceptions:  
There were 39 in January;  
3 occurred on Jan 16<sup>th</sup> with 1 on pilot business and 1 NFFD  
3 occurred on Jan 19<sup>th</sup> with 2 Pilots NFFD, 1 comp, 1 susp.  
12 occurred on Jan 20<sup>th</sup> with 2 Pilots NFFD, 1 comp, 1 susp.  
12 occurred on Jan 21<sup>st</sup> with 2 Pilots NFFD, 1 comp, 1 susp. 1 jury duty

1 occurred on Jan 23<sup>rd</sup> with 1 pilot NFFD, 1 pilot business., 1 comp, 1 NTSB

2 occurred on Jan 29<sup>th</sup> with 1 pilot business, 1 jury duty

6 occurred on Jan 30<sup>th</sup> with 1 pilot business

The shortest MRP was 7.2 hrs

3. M.E. Failure- on Feb 13<sup>th</sup> the inbound container vessel Williamsburg Bridge suffered a main engine failure. Pilot Captain Robinson did an excellent job slowing and eventually stopping the vessel in a safe spot west of Alcatraz where he was able to drop the anchor and await tugboats.
4. Bar Closure- Last weekend's storm created a number of problems. On Saturday evening at the change of the tide three vessels reported they were dragging anchor in Anchorage 9. Only two were actually dragging. Pilots were dispatched to re-anchor the vessels. One vessel was the 1100' MSC Texas with a draft of 43'. Captain Melvin reported that it was dragging at close to two knots in spite of having 9 shackles of chain out.

On Sunday afternoon Captain Kirk initiated one-way traffic due to large seas. At 1930 we closed the bar after Captain Dohm reported seas to 30' breaking all the way across the channel. It took 30 minutes and three attempts to board him off in spite being 2.5 miles west of the sea buoy, where the weather is typically better due to the deeper water. The bar remained closed until 0800. At least 4 sailings and 3 inbounds were delayed.

5. Restricted Visibility Guidelines- the SFBP and USCG have jointly developed a new Restricted Visibility Guideline that we expect will be adopted into the Harbor Safety Plan. An excerpt from the draft proposal is self explanatory: "These guidelines acknowledge that **Large Vessels** are not as maneuverable as smaller vessels and therefore define **Large\_Vessels** as power driven vessels of 1600 gross tons or more, and tugs with petroleum barges of 1600 gross tons or more.

**Critical Maneuvering Areas (CMA):** There are areas within the Bay where additional standards of care are required due to the restrictive nature of the channel, proximity of hazards, or the prevalence of adverse currents. **Large vessels** should not transit through CMA's when visibility is less than 0.5 nautical miles."

The Oakland Bar Channel is one of the CMA's identified.

6. Tug / Pilot ops meeting – we recently met with all the major tug companies and discussed training and important issues.
7. Oil Terminal ops meeting- we recently met with the oil terminals to discuss safety related issues.
8. Pilot Vessels  
P/V GOLDEN GATE  
12/2 - 12/5 - Stdb generator blew a head gasket  
1/6 - 1/18 - S.M.E.-major failure. Under warranty-Caterpillar replaced recently installed parts.

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2/12 - Steering Failure - Intermittent failure attributed to pump #1.  
2/12 - 2/19 - S.M.E.- Exhaust manifold failure

P/V CALIFORNIA

2/19 - 2/20 -Damage repairs. Port side railing.

9. Billed Vessel Moves through Jan. 2008 compared to 3-year average
  - Bar X: +3.4%
  - Bay Moves: +7.4%
  - River Moves: -55.8%
  - Total Moves: +0.8%
  - GRT: +8.9%

When compared to Jan. 07 total moves are down 4.2% and GRT is down less than 1%

Unfinished Business

1. Board office lease -- Executive Director Moloney reported that Sacramento is still in negotiations with Signature and continue to work on a 3-year lease with Signature or the Port of San Francisco.
2. Open Incidents -- Executive Director Moloney
  - a. M/V COSCO BUSAN, allision Bay Bridge, November 7, 2007, SFBP Captain John Cota - report on status of scheduling hearing (currently April 28, 2008) -- Executive Director reported that the hearing is now rescheduled for September 2, 2008.

Commissioner Miller added that a meeting was held with NTSB regarding a request that the BOPC participate at a hearing scheduled for April 8 and 9, 2008 in Washington D.C. A decision has not been made at this time as to who will attend.
  - b. M/V GOLDEN DREAM, allision with Sacramento Berth 2, December 20, 2007 -- remains under investigation
  - c. M/V BUM YOUNG, pilot suffered physical ailment, January 22, 2008; non-incident -- related to an ailment. This item will be removed from the agenda.
3. Pilot Ladder reportable incidents -- Executive Director Moloney -- IRC review of pilot ladder deficiency report based on “failure to rest firmly against ship’s side” - proper standard under IMO/USCG

There were two pilot ladder reportable incidents that are under investigation. COSCO ROTTERDAM 2/14/08 and OVERSEAS HOUSTON 2/18/08.

4. Rules and Regulations Committee -- Commissioner Wainwright -- no report

5. Finance Committee -- Commissioner Osen -- report on February 4, 2008 Committee meeting including report on fund status and projected fund balance in Board operations, training programs; possible recommendation to increase Pilot Training Surcharge (currently \$30 per move) to maintain adequate reserve; possible recommendations to increase Board operations surcharge (currently 2.4%) to meet anticipated increased expenses; possible recommendations to seek additional spending authority for FY 07/08 and FY 08/09; **possible Board action re same**

Commissioner Osen reported that the Committee met February 4, 2008 and reviewed the fund status and projected fund balance in Board operations, training programs to maintain adequate reserves and to meet anticipated increased expenses due to the COSCO BUSAN and decrease in total pilot fees and ship movements on which surcharges are based.

The Committee recommends the following and it was subsequently moved as follows:

- (1) It was moved and seconded to increase the Board operations surcharge to 4.8% effective April 1, 2008 (currently 2.4%) or as soon thereafter as Department of Finance approves increase. The Committee based its recommendation on projected expenditures, for Board Operations of \$125,000 per month and anticipated reserves of \$375,000 for Board operations by January 2007.
- (2) Increase the pilot training surcharge to \$45 per move (currently \$30 per move) effective April 1, 2008. The reserves for this category have been intentionally allowed to come down and will reach the desired 3-month level by mid-2008.

Commissioner Miller asked for comments from the public and discussion. The number of moves and procedure to obtain approval from the Department of Finance was clarified. The motion passed unanimously.

It was noted that the Trainee Training surcharge would remain the same (currently \$9 per move per trainee).

Commissioner Miller noted that Board staff and several members of the Finance Committee are scheduled to attend Budget Change Procedure classes during April and May.

Commissioner Miller gave an overview of the Spring Finance Letter and noted that it is due March 13, 2008. Board staff is currently addressing various areas of increased costs due to the COSCO BUSAN that may include additional committees, various training needs for Board staff and investigators, increase in legal expenses and special project personnel. The Board discussed various avenues to obtain project personnel through the state and industry and the future role of legal counsel and what level of additional support is needed. Commissioner Miller and Tate will meet with senior DCA personnel to address the Board's human resources needs, including possible use of retired state employees to perform some of the tasks currently performed by Board counsel and staff.

Commissioner Miller expressed his concern of the time frame to complete the Spring Finance Letter and the need to determine amounts needed for the increased costs due to the COSCO

BUSAN. The Board discussed and concurred to authorize Board President and/or Executive Director to include up to \$100,000 in the Spring Finance letter for additional project personnel support. Board staff to determine the remaining costs related to additional legal expenses, training and committees.

Mr. Mike Jacob, Vice President PMSA who was in the audience reported that PMSA along with SFBP would submit letters on behalf of the Commission to the Department of Finance.

Commissioner Miller continued that under New Business 1., item would be addressed out of order as follows:

Authorize Board President and/or Executive Director to prepare and sign contracts for legal services with Emard Danoff Port Tamulski & Paetzold LLP and Farbstein & Blackman, APC for FY 08/09 to reflect potential increase in legal expenses associated with the M/V COSCO BUSAN's allision with Bay Bridge on November 7, 2007, administrative hearing, possible appeals, legislative hearings and additional legal expenses to address issues raised by incident and related state and federal inquiries.

The Board discussed and reviewed primary counsel and secondary counsel responsibilities and Commissioner Miller gave the following report:

For 17 years - maximum contract amount has been set at not to exceed \$300,000 for primary and \$30,000 for secondary counsel. That has been adequate to meet the Board's variety of legal needs. In the last 4 years - until COSCO BUSAN, actual annual expenditures varied from between \$180K and \$280K.

As discussed at the last Board meeting, since the COSCO BUSAN, the Board's legal needs have risen dramatically, not just with the various investigations of the incident itself by the IRC and state and federal agencies, but with more recent calls to review the Board's procedures for pilot oversight and our own plans for comprehensive systems reviews of the Board's functions, incident investigation procedures, medical standards for pilots, training in navigation technology, the use of portable pilot units, development of best practices, to name a few. Board counsel advised that the Board needed to prioritize those needs and reevaluate how it uses Board counsel.

Commissioner Miller advised that this item would remain on the agenda until the March Board meeting to allow enough time to determine accurate contract amounts after the Spring Finance Letter is completed.

6. Pilot Training Curriculum Committee -- Commissioner Wagner said there is no report.
7. Pilot Evaluation Committee -- Capt. Roberts -- report on February 20, 2008 meeting; possible recommendation to appoint Pilot Evaluation Committee member; possible recommendation to issue Certificate of Completion and license to one or more Trainees if warranted; **possible Board action re same**

The Pilot Evaluation Committee met on February 20th, 2008, @ 0700. All 13 trainees were interviewed individually, their trip cards examined, and their progress with all elements of the program monitored. The trainees range in time in the program from (3) @1 month, (3) @ 7 months, (3) @10 months, and (4) @ 1 year and 1 month. All continue their progress satisfactorily, and at their own speed. There are no recommendations at this time. But I do hope to have a recommendation in the near future.

As reported previously, Capt. Bill Wells has decided to leave the PEC. Several months ago we put out a call to all pilots with 10 years experience or more, to indicate their interest in serving on the Pilot Evaluation Committee. We received many very well qualified responses. I'm happy to report our recommendation to you: Capt. Einar Nyborg; Age 41; Native Northern Californian; CMA Graduate, Deck, Class of 1988, at age 22.

Some of his experience includes: Worked in Commercial fishing in Bearing Sea, Alaska, 1987-1989; Keystone Shipping Company, 3rd Mate-Chief Mate 1989-1992, West Coast crude oil and product trade; 1991-1995 Crowley Maritime Services, San Francisco Bay, tugboat Capt. on all vessels, barge pilot, occasional coastal towing. Primarily ship assist work and barge moves; 1989-1995. Continuous piloting training with Capt Wally Slough on San Francisco Bay on vacation periods from shipping. Federally licensed Unlimited Pilot, Prince William Sound, Alaska and all of San Francisco Bay prior to Pilot Training Program; 1994, age 28, SFBP- BOPC Pilot Training Program; 1995, age 29, Appointment as a San Francisco Bar Pilot; 2000-2005 Operations Pilot, SFBP.

His interest in ships and piloting began when his father, Russ Nyborg brought him along on a docking job of the STAR WORLD into Pier 27, on the San Francisco waterfront. He was about 10 years old at the time. The Norwegian captain brought out a milk crate for him to stand on so he could see over the rail. It would be 16 years later that he would come to realize how much skill his dad had in backing that ship into the berth during the ebb current with a couple of single screw tugs. In his own words: "Our work as pilots cannot be taught solely in books, our route through the bay cannot be the work of computers or remote operators. Our work is learned by watching the talent of others, then stepping up to try it ourselves. My maritime career has been marked by men whose work I admire. These men gave me the helm at some point to help bring me along. It is our responsibility as pilots and mariners to pass our skills and knowledge on to those who come behind us. Herein lies my interest in becoming a Pilot Evaluation Committee member."

I can confirm that Capt Nyborg has met the statutory requirement of being licensed as a San Francisco Bar Pilot for 10 years or more.

The PEC would like to thank Capt. Bill Wells on his 2 years of fine service to the Committee.

It was moved and seconded to accept the PEC's report and recommendation to appoint Capt. Einar Nyborg to replace Capt. Bill Wells as a Pilot Evaluation Committee member. Commissioner Miller asked for comments from the public and discussion. There were several

comments supporting Captain Nyborg's qualifications and appointment. The motion passed unanimously.

The Board extended its appreciation to Capt. Bill Wells on his service to the Pilot Evaluation Committee.

8. Pilot Power Committee -- Commissioner Wagner -- report on February 27, 2008 meeting -- possible recommendation re contracting with additional pilot trainees for entry into training program - timing of entry; **possible Board action**

The Pilot Power Committee met on February 27, 2008. The Committee reviewed the Regulation 237(d) data for 2007 and the results of the latest retirement survey. The Committee unanimously concluded that 60 continues to be the number of pilot licenses appropriate to ensure the availability of an adequate number of qualified, rested pilots to provide timely Pilotage services for existing traffic. A hearing to determine the number of licensed pilots is not warranted at this time. Today there are five pilot licenses available to be filled due to retirement effective January 1, 2008. The retirement survey indicates that eight pilots anticipate retirement by January 1, 2011. Currently there are 13 trainees in the training program. The Committee agrees that there are an adequate number of trainees at this time.

A new retirement survey will be sent out in July this year. The Committee plans to review the survey results and the updated Regulation 237(d) data for 2008 prior the July Board meeting.

9. Pension Committee -- Commissioners Miller/Tate -- Report on status of requests for offer/proposals by third party contractors to provide fiduciary services, for actuarial study and for audit; **possible Board action re same**

Commissioner Miller reported that BOPC staff and DCA have forwarded a contract to Ghirardo CPA to perform the fiduciary services.

Commissioner Miller reported that a Request for Bid was sent to several vendors for the actuarial study and that the response date is February 29, 2008. Board staff has received one inquiry to date.

10. Vessel Interactions -- Executive Director Moloney
  - a. M/V SITEAM ANATAS, possible vessel interaction at Bay Bulk Pittsburg, September 2, 2007, SFBP Captain Ken O'Laughlin -- further report by IRC on vessel interaction

Executive Director reported the investigation is not complete, as the IRC has requested additional information.

11. Pilot Security -- Commissioner Johnston recommended that this item be removed from the agenda because the MARSEC level remains low. SFBP Port Agent has concurred that the item can be added to the agenda if the need arises.
12. Pilot Identification Cards -- Executive Director Moloney – status of federal proposal for Transportation Worker Identification Credential (TWIC), obtaining a more substantial Pilot I.D. card. Executive Director noted several time frames quoted to receive the TWIC after on-line application.
13. Ad Hoc Committee on Pilot Safety -- Commissioner Soares said there is no report.
14. Pilot Vessel Advisory Committee -- Captain Figari -- no report
15. UPRR Bridge -- Executive Director reported VTS is reviewing bridge protocol and a new pocket book would be printed. SFBP Port Agent Captain McIsaac reported that NOAA is to install a PORTS wind sensor on the UPRR Bridge.
16. Ad Hoc Advisory Committee on Pilot Selection -- Commissioner Tate said there is no report.
17. Navigation Technology Committee -- Commissioner Johnston -- report on February 13, 2008 Committee meeting, status of developing recommendations regarding electronic navigation system issues, training and portable pilot units

The first meeting of the newly appointed Navigation Technology Committee was held on 13 February here in the Board's conference room. The members of the Committee, Capt. Gabe of the San Francisco Bar Pilots, Captain Hill and Captain Schisler discussed numerous options on three specific issues: One - -development of recommendations to enhance the ability of pilots to navigate ships safely; two -- reevaluate the current training of pilots on systems current onboard ships and three -- determine, what role the pilot commission should take in regards to PPU's. (Portable Pilot Units) 50% of SFBP pilots currently use a PPU - but not all are using the same software.

We had a full agenda of topics that were discussed freely. Since it was the first meeting of the Committee, the issues were far reaching and raised many valid concerns that we are currently evaluating. Capt. Gabe gave us an appraisal of pilot assist equipment that was demonstrated in the pilot office last month and some other equipment that is currently available for consideration by the pilots. Copy of detailed agenda is available.

Also participating in the discussions were individuals from the SF Pilots, USCG VTS office, California Maritime Academy and NASA.

Our next meeting is scheduled for 1000 on 20 March here in this office.

## New Business

1. Authorize Board President and/or Executive Director to prepare and sign contracts for legal services with Emard Danoff Port Tamulski & Paetzold LLP and Farbstein & Blackman, APC for FY 08/09 to reflect potential increase in legal expenses associated with the M/V COSCO BUSAN's allision with Bay Bridge on November 7, 2007, administrative hearing, possible appeals, legislative hearings and additional legal expenses to address issues raised by incident and related state and federal inquiries... [This was addressed under item 5 Finance Committee above and will be kept on the agenda.]

and Associated Bay Area Government (ABAG) Website in the amount up to \$10,000 and miscellaneous office contracts (security, maintenance agreements and off-site room rental).

It was moved and seconded to authorize Board President and/or Executive Director to prepare and sign contracts for Associated Bay Area Government (ABAG) Website in the amount up to \$10,000 and miscellaneous office contracts (security, maintenance agreements and off-site room rental). Commissioner Miller asked for comments from the public and discussion. There were no comments and no discussion. The motion passed unanimously.

2. Public Comment on matters not on the agenda

Commissioner Miller proposed for consideration a modification to the current IRC reporting procedure:

The procedure does not require a change to our regulations. The change is intended to address concerns (which I share) that the traditional procedure did not give adequate opportunity for Board members to become comfortable with their decisions to accept the IRC report or request additional information. The new procedure would be as follows:

The IRC summary report would be distributed to the Board as in the past. Board members would read the report. The IRC (Capt. Moloney) would review and explain the report, and announce the IRC recommendation.

Board members would be invited to ask questions of the IRC and request additional information. (The above tracks existing reporting procedures.)

At this point, the matter would be put over to the next meeting to give members time to think about the report, and perhaps request additional information.

Requests for additional information could be transmitted to Capt. Moloney or the IRC Chairman between meetings, but under our regulations, the IRC members could not discuss the requests or questions with the Board member. Those discussions could be had in public at the next Board meeting.

If all questions are answered to the satisfaction of the Board, it would vote to accept the report. If not, the report would be put over again for further information.

Though the procedure would extend the time necessary for consideration of the IRC's report, it should permit a more contemplative process than we have used in the past.

After brief discussion it was agreed that the IRC would meet to review the proposed and current procedure and bring a recommendation on how to handle reports in the future to the Board for further discussion and review.

Commissioner Miller noted the introduction of the following Legislation dealing with the Board of Pilot Commissioners:

SB 1217 introduced by Senator Leland Yee

SB 1627 introduced by Senator Patricia Wiggins

3. Proposals for additions to next month's agenda -- it has been three years since the last review of retirement benefits requested by Harbors and Navigation Code Section 1167. The Pension Committee was asked to conduct the review and develop recommendations for the Board's March meeting.

Schedule next meeting -- the next Board meeting is scheduled for March 27, 2008 at 9:30 a.m.

Adjournment -- the meeting was adjourned at 11:35 a.m.

Respectfully submitted,

Alice A. Evans  
Secretary