

Minutes
May 22, 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 9:40 a.m. on Thursday May 22, 2008, Commissioner Miller presiding. A quorum was present including Commissioners Osen, Soares, Tate 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 March 27 and April 24, 2008 regular Board meetings. The March 27, 2008 minutes were unanimously approved. Commissioner Osen requested additional time to review the draft April 24, 2008 minutes and forward comments to Board staff.

President's Report

Commissioner Miller noted this item remains on the agenda for continued update on various items that the Board is involved with and do not necessarily fit in the agenda. He noted that today is the National Maritime Day, and read the proclamation by the President of the United States of America. He noted that additional information would be addressed under correspondence regarding the COSCO BUSAN.

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

1. The Board received a letter dated April 30, 2008 from SFBP Captain Sam Hartshorn regarding his intent to retire from the SFBP effective 2400 June 30, 2008.
2. The Board received a letter dated May 9, 2008 from Edmund G. Brown, Jr., Attorney General, regarding Anderson, Jim et al BOC Claim No. G574714 requesting BOPC to preserve any material concerning this matter pending possible litigation.

Commissioner Miller asked Board Counsel to comment. Board counsel commented that the Board has received notification that the California Victim Compensation and Government Claims Board has received a claim filed on behalf of commercial fishermen as a result of the oil spilled from the COSCO BUSAN last November following its allision with the fendering system of the Delta Tower of the Oakland Bay Bridge. Pursuant to state law, such claims against the state must be filed within six months after an incident giving rise to a claim.

The fishermen seek damages from the state for past and future loss of income. They allege that the state is responsible for their damages because the Pilot Commission negligently permitted the pilot of the COSCO BUSAN to hold a license and to pilot the vessel.

The claim has been placed on the Claims Board's consent calendar for its June 19, 2008 hearing. The Claims Board is expected to deny the claim on grounds that it raises complex issues inappropriate for the claims process. Once the claim has been denied, the claimants

may file suit and pursue their claims through the court system. The Attorney General's office has been informed of the claim. No action is required by the Pilot Commission at this time.

E. Other Pilot Matters -- Executive Director Moloney

1. The Board issued license renewals to SFBP Captains Chapman, Fuller, Gabe, Horton, Sweeney, Weiss, Wells and Inland Pilot Captain Slough during the month of May.
2. The Board received manpower reports and statements for pilotage fees and surcharges collected from SFBP through March and Inland Pilot Captain Slough through April 2008.

Port Agent's Report -- SFBP Captain Peter McIsaac

1. NFFD:
Captain Simenstad expects to be FFD June 1; since he has not piloted for 5 months he will ride as an observer over all applicable routes prior to being assigned.
Captain Morgan Hoburg is NFFD while being treated for a medical condition; during his recovery he is working as an operations pilot and is therefore not shorting the board.
Captain Pinder injured his back while disembarking from a vessel in March; he is undergoing physical therapy and hopes to be FFD by June 15.
Captain Sweeney broke a bone in his shoulder April 11. The doctor just discovered that the fracture extends into the shoulder socket. Capt. Sweeney is expected to remain NFFD for another 6-8 weeks.
Captain Wagner is being treated for a condition not related to piloting; she is expected to be FFD by mid-June.
Captain Atthowe injured his back on May 19; he is still being evaluated and is expected to be NFFD through June.
Captain Pinetti had knee surgery May 1; he is expected to be FFD June 4.
Captain Lemke had knee surgery May 15; he is expected to be FFD June 4.
Captain Chapman had knee surgery on May 21; he is expected to be NFFD for 4 weeks.
Captain McIsaac commented that several elective surgeries had been postponed to avoid shorting the board.
2. Recommended Minimum Rest Period Exceptions:
There were 38 in April: 20 occurred on April 3 with 1 pilot NFFD, 1 on pilot business, 23 pilots were on the board; 17 occurred on April 4 with 1 pilot NFFD, 24 pilots were on the board; The MRPs were exacerbated by the short board but the primary cause was a large number of vessel moves, including river moves and upriver tanker moves, both of which are manpower intensive. 1 occurred on April 16 with 2 NFFD, 1 pilot business and 1 suspended, 21 pilots were on the board. The shortest MRP was 3.5 hours while the average was 8.6 hours.

Commissioner Miller reported that Captain Moloney, Board counsel and he had met with Port Agent McIsaac to discuss the recent increase in MRP exceptions and related safety

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

concerns. He felt assured that the SFBP were doing all they could to minimize such exceptions and to ensure that inadequately rested pilots were not assigned to move ships. While the Port Agent has responsibilities set out in the Board's regulations with regard to the assignment of pilots, a pilot also has a responsibility to notify the Port Agent if he or she is not alert and adequately rested for the job. The Port Agent advised that he assigned a relief pilot for a pilot reporting fatigue, and that such requests for relief are encouraged. He felt that the increase in MRP exceptions is a short term issue caused in part by the increased number of retirements and unusual number of pilots recovering from injuries and should abate with the licensing of additional pilots as trainees complete the training program.

Commissioner Osen repeated his earlier question regarding at what point a ship would be told that it could not leave the dock. The Board discussed possible circumstances and options for assigning pilots, and that if no rested pilot was available, the ship's sailing may have to be delayed. While concerns regarding the economic effect of delaying a ship were acknowledged, the Board's and pilot's primary responsibility was for the safe navigation of ships.

Commissioner Miller proposed that the issues raised by the recent increase in minimum rest period exceptions, and an exploration of options available to deal with them effectively in the short term be assigned for further discussion to the Pilot Power Committee.

3. P/V GOLDEN GATE Life Extension Update: The additional hull work should be completed this week. Machinery installation will start next week. The boat should be ready for service by the end of June.
4. Pier 9 Lease: The SFBP and Port of San Francisco have come to terms on a new 15-year lease, which takes effect January 1, 2010.
5. Billed vessel moves through April 2008 compared to 3-year average:

Bar crossings:	+1.5%
Bay moves:	+7.1%
River moves:	-20.0%
Total moves:	+1.5%
GRT:	+5.9%

When compared to the first four months of 2007 total moves are down less than 1.2% as is GRT.

Unfinished Business

1. Board office lease -- Executive Director Moloney reported Sacramento Real Estate is in contact with Signature and nothing further to report at this time.
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 September 2, 2008) -- Commissioner Miller noted that there is no change in the hearing date.

- b. M/V MORNING CHARM, allision Benicia Berth 2, February 21, 2008

Executive Director Moloney reported that the IRC requests an extension until the next Board meeting because the Chair of the IRC is absent. It was discussed that the Chair need not necessarily be present when the IRC's report is given, but that in past practice the Chair had usually been in attendance for the reports. It was moved and seconded to extend the IRC report until the next Board meeting. Commissioner Miller asked for comments from the public and further discussion. There were none. The motion passed unanimously.

- c. M/V TU QIANG, allision, Richmond, Parr 5A, March 25, 2008 -- Executive Director reported that the incident remains under investigation.

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 -- Executive Director Moloney said there were no incidents to report.
4. Rules and Regulations Committee -- Commissioner Wainwright said there is no report.
5. Finance Committee -- Commissioner Osen -- report on May 22, 2008 meeting -- Commissioner Osen reported the Committee met today and reviewed the Pilot Vessel Surcharge and noted a \$300K deficit and that it was reported that the SFBP anticipates submitting a request for an increase in the surcharge. The Committee discussed various surcharge collection options that may be available to eliminate SFBP's collection of surcharge fees and issues that may develop. Board staff was notified by DCA to make preparations to maintain operations in the event the 08/09 Budget is not signed. The Committee reviewed the Fund Status report and projections prepared by Board staff and DCA Budgets. The fund shows a 2.5-month reserve. The next Committee meeting is scheduled for 9:00 a.m. June 18, 2008.
6. Pilot Training Curriculum Committee -- Commissioner Wagner -- Commissioner Miller said there is no report.
7. Pilot Evaluation Committee -- Capt. Roberts -- report on May 21, 2008 meeting; possible recommendation to issue Certificate of Completion and license to one or more Trainees if warranted; **possible Board action re same**

Captain Roberts reported as follows:

The Pilot Evaluation Committee met on May 21, 2008. All 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) @ 5 months, (3) @ 11 months, (3) at 1 year and 1 month, and (4) @ 1 year and 5 months. Most trainees are proceeding satisfactorily and at their own speed. Two trainees have been counseled on specific areas

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

requiring improvement to ensure that they are able to make adequate progress in the training program without Board intervention. The PEC will continue to monitor their progress and keep the Board informed.

The PEC completed a final assessment of whether trainee Captains David McCloy and Shane Wehr have successfully completed all elements of the training program as listed in the Board's Regulations in Section 214. (A copy of that regulation is before you).

The Committee unanimously agreed on its conclusion and has authorized me to present its recommendations to you at today's meeting.

Captain David McCloy

San Francisco Bay Maritime Experience:

Prior to entering the BOPC training program Captain McCloy worked for Foss Maritime Company. He served as Captain of conventional, Voith Schneider Cycloidal and ASD propulsion tractor tugboats, handling oil barges, ship assists duties and tanker escorts. In addition to his tractor tug experience Captain McCloy served as designated Company representative and pilot on flat tows including the USS Tripoli to and from various Bay Area berths. He was a special project manager for the modification and operation of heavy lift transshipment barges for the new Carquinez Bridge construction. He controlled salvage operations using submersible heavy lift barge systems, and served as Port Captain.

Prior to his work at Foss Captain McCloy worked for Olin Jones Sand Company as captain of tugboats pushing sand barges and dredges. He was the company Safety and Hazardous Materials Manager, and director of its safety program.

Offshore Experience:

Captain McCloy spent five years as mate on various multiple product and crude oil tankers with West Coast Shipping Company and Trinidad Corporation. He also sailed as mate on APL container and roll on-roll off vessels.

Education:

California Maritime Academy, B.S. in Nautical Industrial Technology

Pilot Training Program:

Capt. McCloy entered the Board's Pilot Trainee Training Program on April 1, 2007.

To date, Captain McCloy has a total of 373 trips riding as observer on 147 jobs, (including the required trips on local tugboats) and directing the navigation of the vessel under the direct supervision of a pilot or inland pilot on another 226 jobs.

Captain McCloy has worked extensively with members of the Pilot Evaluation Committee, acquiring more than the 50 rides required by law (73), with 25 of those rides completed within the last 90 days.

Captain Shane Wehr

Prior to starting the BOPC Training program Captain Wehr served as Tug Master for Foss Maritime. He performed ship assists, transported petroleum barges and consulted on marine construction projects. Captain Wehr's experience includes many transits of materials from the Port of Stockton for the construction of the new span on the San Francisco/Oakland Bay Bridge. Captain Wehr was also in command of ASD tractor tugs where he performed ship assists and tanker escorts in the San Francisco Bay.

Prior to Foss, Captain Wehr worked at Westar Marine Services. He earned his first license in two years rising to Tug Captain. During his tenure at Westar, Captain Wehr specialized in marine construction and support including the retrofit of the San Mateo and San Rafael Bridges, and construction of the new Hanjin terminal in Oakland.

Captain Wehr began his maritime career as a commercial fisherman. He started as a deckhand on his father's fishing boat and worked his way up to owning and operating his own commercial vessel, fishing the waters from Southern California to the Washington coast.

Captain Wehr is married with two daughters ages 4 and 2.

Capt. Wehr entered the Board's pilot trainee training program on January 1, 2007. To date, Captain Wehr has a total of 370 trips, riding as observer on 125 jobs, (including the required trips on local tugboats) and directing the navigation of the vessel under the direct supervision of a pilot or inland pilot on another 245 jobs.

Captain Wehr has worked extensively with members of the Pilot Evaluation Committee, acquiring more than the 50 rides required by law (63), with 14 of those rides completed within the last 90 days.

Both

As I have reported to you in the past, the Committee regularly reviews each trainee's progress through periodic meetings with him and through its review of evaluation cards (trip reports) from other pilots. Each Committee member personally rode numerous times with Captains McCloy and Wehr before making this recommendation.

Captains McCloy and Wehr continue to meet all statutory prerequisites for being licensed as a pilot. They have maintained in excess of a 4.0 score on their evaluations by the Committee during each of the last three months (an average of 4.61 and 4.47, respectively) and have adequately demonstrated each of the specific items of local knowledge required by the regulation.

In addition the Committee used detailed trip reports and personal observation to ensure that Captains McCloy and Wehr have demonstrated a working knowledge of the fundamentals of shiphandling in each of the circumstances listed in the regulations, and have demonstrated the skills and knowledge necessary to become a Board licensed pilot.

On behalf of the Pilot Evaluation Committee, it is my great pleasure to recommend that the Board issue to Captains McCloy and Wehr a certificate of completion of the Board's pilot trainee training program and that it authorize the issuance of a pilot's license to each of them effective June 1, 2008. I am happy to answer any questions.

It was moved and seconded to accept the PEC's report and to issue a Certificate of Completion and a Pilot's License to Captains McCloy and Wehr effective June 1, 2008. Commissioner Miller asked for comments from the public and discussion. There were no comments and no discussion. The motion passed unanimously.

Commissioner Miller and Board and members of the audience extended their congratulations to Captains McCloy and Wehr. The swearing in would take place immediately after the Board meeting.

8. Pilot Power Committee -- Commissioner Wagner -- Commissioner Miller said that there was no report.
9. Pension Committee -- Commissioners Tate/Miller -- Report on status of requests for offer/proposals by third party contractors to provide actuarial study. Report on audit of 2007 receipts and disbursements with respect to the San Francisco Pilot Pension Plan.

Commissioner Miller reported that "DCA Contracts" will advertise for the actuarial study on June 3, that the bid opening will be June 18, with a start work date of July 1, 2008.

Commissioner Miller noted that with respect to the San Francisco Pilot Pension Plan that the Ghirardo CPA Firm, Fiduciary for Calculations, is in the process of building an SFBP Pension Plan spreadsheet to be implemented in the October quarter.

Commissioner Miller reported that, pursuant to the Board's directions, the Acting Fiduciary, Executive Director Moloney, had contracted with Shea Labagh Dobberstein, CPAs to audit the billings and disbursements in 2007 pursuant to the San Francisco Pilot Pension Plan. Copies of the report are available in the Board office.

Commissioner Miller discussed the provisions of the statutory pension plan to pay benefits based on actual amounts billed under the surcharge, which will differ from the target benefit figures because of variations in ship traffic. Of importance is that the total amount billed should be equal to the total amount paid out. The audit report confirms that those amounts are equal and provides a break down of the amount paid for expenses of the plan and the amount paid out in pension benefits.

Mike Jacob, VP of PMSA, asked whether the Board would be called upon to "accept" the audit report. Commissioner Miller stated that the report was provided to the Acting Fiduciary and was available to the public and that the question of whether the Board needed to take further action to accept the report could be addressed at the next meeting after everyone had a chance to review the report.

10. Vessel Interactions -- Executive Director Moloney said no vessel interactions had been reported since the last Board meeting.
11. Ad Hoc Committee on Pilot Safety -- Commissioner Soares said there was no report.
12. Pilot Vessel Advisory Committee -- Captain Figari -- Mr. Jacob, PMSA who was in the audience said there was no report, but that the Committee was likely to meet in the next month or two.
13. UPRR Bridge -- Executive Director said there was no report.
14. Ad Hoc Advisory Committee on Pilot Selection -- Commissioner Tate reported that a meeting is scheduled for June 6, 2008 at 10:00 a.m.
15. Navigation Technology Committee -- Commissioner Johnston Report of Navigation Technology Committee received and accepted by the Board at its meeting of April 24, 2008 – recommendations and **possible Board action re same:**

Commissioner Miller noted that the Board had accepted the committee report at its last meeting but had not had a chance to consider, discuss and act on the specific recommendations, and that this was an opportunity to do so.

Recommendation No. 1

That the Board direct its Curriculum Committee to consider incorporating in the current training program enhanced training in advanced electronic navigation systems providing exposure to a greater number of systems and variety of presentations than what is currently provided;

It was moved and seconded to direct the Curriculum Committee to address item (1) as written. Commissioner Miller asked for comments from the public and discussion. There were no comments from the public and no further discussion. The motion passed unanimously.

Recommendation No. 2

That the Board adopt by regulation a requirement that pilots licensed by the Board be equipped with, and trained in the use of, portable electronic navigation equipment, commonly known as Portable Pilot Units ("PPUs"). The regulation should require that pilots be equipped with PPUs at all times while piloting except when the pilot deems that

embarking on or disembarking from a vessel while carrying a PPU may present an unacceptable safety hazard to the pilot or when circumstances would prevent its use.

Such PPUs shall, at a minimum, have the following capabilities:

- (a) Displaying approved electronic navigation charts (ENCs) issued by the cognizant U.S. government authority;
- (b) Displaying the vessel's position and heading on such ENCs to the accuracy required by the International Maritime Organization (IMO) for Automatic Identification Systems (AIS); and
- (c) Displaying other navigational information as provided through the vessel's AIS pilot plug.

It was moved and seconded to direct Board staff to begin the rulemaking process. Commissioner Miller asked for comments from the Board and from the public, and for discussion.

Commissioner Miller noted that, in meetings with the Department of Finance to obtain additional spending authority for the current and coming fiscal years, he was informed that DOF recommended a change in the Board's rulemaking procedures by hiring an Associate Government Policy Analyst (AGPA) on a part time basis to prepare all future rulemaking, that rulemaking procedures should go through a single committee to develop the desired rulemaking and, once that committee's recommendations are accepted by the Board, to then use the AGPA in lieu of the Rules and Regulations Committee to complete the rulemaking process. The current fiscal year provides no funding for the Board to hire an AGPA, but the proposed budget for FY 08/09 does. That budget awaits approval as part of the annual state budget process.

There was discussion as to the procedure for ensuring compliance with the Administrative Procedures Act, including the timing of the Board's consideration of the specific capabilities of the Portable Pilot Units and other provisions included in the Navigation Technology Committee's recommendation, as well as associated costs and other procedural concerns before continuing with the formal rulemaking process.

Commissioner Miller stated that, in light of DOF's recommendations regarding the use of an AGPA, and the current budgetary constraints, there would appear to be sufficient time to address those concerns, which could be addressed in the Navigation Technology Committee.

Thereafter, the motion passed unanimously.

New Business

1. Incident Review Committee -- report on application of tug guidelines for Bay and River moves -- Executive Director referred to the SFBP Guidelines and noted these are on the

sfbarpilots.com web-site. The guidelines do not address up-river tug requirements past New York Point. SFBP Port Agent McIsaac noted that each river job is assessed on an individual basis through the SFBP operations pilot, recognizing the limits of the tugs available in Stockton and Sacramento. SFBP Port Agent Captain McIsaac reported the potential of car ships docking in the Port of Stockton and that SFBP has addressed their concern to the Port of Stockton regarding the effect of wind on the larger sail areas of those vessels and that larger tugs may be needed.

The Board discussed various ways to address guidelines for upriver moves and it was noted that the Harbor Safety Committee is an avenue to address these types of issues.

It was moved and seconded to direct Board staff to write a letter to the Harbor Safety Committee regarding concerns relative to the size and suitability of ship assist tugs available for ships calling on the Ports of Stockton and Sacramento. Commissioner Miller asked for comments from the public and discussion. There was no further discussion. The motion passed with five yes and one no.

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

Schedule next meeting -- the next meeting is scheduled for June 18, 2008 at 9:30 a.m., Finance Committee at 9:00 a.m.

Adjournment -- the meeting was adjourned at 11:35

Respectfully submitted,

Alice A. Evans
Secretary