

Minutes
July 24, 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 July 24, 2008, Commissioner Miller presiding. A quorum was present including Commissioners Johnston, Osen, Tate, Wagner and Wainwright. Also present were SFBP Port Agent Captain McIsaac, Board Counsel Paetzold, Executive Director Moloney and Secretary Alice Evans.

Commissioner Miller introduced Anita Scuri, Supervising Sr. Staff Counsel, Department of Legal Affairs, Department of Consumer Affairs

Request approval of Minutes of the June 18, 2008 regular Board meeting.

Port Agent Captain McIsaac noted a change to: Item 2 Paragraph of the Port Agent's report has an error that needs correcting. The sentence "this is usually done when there is a shortage of river pilots" is incorrect and should be deleted.

The minutes were unanimously approved as corrected.

Commissioner Miller stated that he would take the Pilot Evaluation Report out of order to permit all closed meeting items to be considered during one session, and to permit Captain Roberts to return to his piloting duties.

8. Pilot Evaluation Committee -- Capt. Roberts -- report on July 23, 2008 meeting; possible recommendation to place one or more Trainees on probation and/or to issue Certificate of Completion and license to one or more trainees if warranted; if there is a recommendation to place a trainee on probation, it may be heard and considered in closed session as authorized by Government Code Section 11126(a)(1); **possible Board action re same**

The Pilot Evaluation Committee met on July 23, 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 (2) at 7 months, (2) at 1 year 1 month, (1) at 1 year and 4 months and (1) at 1 year and 7 months. Most trainees are proceeding satisfactorily and at their own speed. Two trainees have been counseled on specific areas requiring improvement to ensure that they are able to make adequate progress in the training program. As will be addressed further in the closed meeting, the committee will recommend that one of these two trainees be placed on probation. The PEC will continue to monitor the second trainee's progress and will keep the Board informed. Another trainee is undergoing testing to confirm fitness for duty. The PEC received a letter of resignation from Trainee Captain Bob Cavender from the Board's Pilot Trainee Training program dated July 15, 2008. He cites personal reasons.

Commissioner Miller stated that the Board would go into closed session to discuss the following items:

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

- (1) The recommendation of the Pilot Evaluation Committee to place one of the trainees on probation, as noticed in Agenda Item 8 and authorized by Government Code Section 11126(a) (1);
- (2) The evaluation of the performance of the Board's Executive Director, as noticed in Agenda Item 1 and also authorized by Government Code Section 11126(a) (1); and
- (3) The report by the Board's legal counsel on the pending litigation arising out of the COSCO BUSAN allision, as noticed in Agenda Item 2, which identified the litigation to be discussed. That closed session is authorized by Government Code Section 11126(e) (1).

The Board then went into closed session until 11:25 a.m. and reconvened in open session at 11:30 a.m.

Upon returning to open session, Commissioner Miller announced that the Board had just completed a closed session to consider a recommendation of the Pilot Evaluation Committee to place a trainee on probation and to set the conditions and period of probation, and that the Board had unanimously accepted those recommendations and advised that the PEC could request the Board to change the conditions or the period of probation if it deemed that the circumstances warranted it, following notification to the trainee.

Commissioner Miller further announced that the Board had met in closed session to conduct a performance evaluation of its Executive Director and to confer with counsel regarding the litigation arising out of the COSCO BUSAN incident, as identified in the agenda. No board action was taken as to either of these items.

President's Report -- Commissioner Miller reported that the Board is preparing comments to the National Transportation Safety Board's draft factual report of the M/V COSCO BUSAN incident. The comments are due August 8, 2008. The NTSB expects to issue its final report by the December 2008 meeting.

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

1. The Board received a letter dated June 17, 2008 from the Port of Stockton regarding renewal of commissions for various river pilots - for the period July 1, 2008 through June 30, 2009 as follows: Captains Alden, Atthowe, Gabe, Haggerty, Hartshorn, Hurt, Miller, O'Laughlin, Pinetti, Sweeney and Inland Pilot Slough.
2. The Board received a letter dated June 18, 2008 from the Department of Finance, Mr. Todd Jerue, Program Budget Manager, regarding 2009-10 Budget process.
3. The Board received a letter dated June 23, 2008 from SFBP Captain Hartshorn stating that he has postponed his retirement date of June 30, 2008.

4. The Board received an email dated July 8, 2008 from Inland Pilot Captain Slough regarding a minimum rest period exception on July 7, 2008: 0650 Relieved on M/V STAR OPTIMANA down bound from Sacramento off Point Blunt; 0710 arrived at Pier 9 Pilot Office to home; 0735 arrived home; 1530 left home by taxi to sail M/V STAR HIDRA from Stockton; 1700 Last line on STAR HIDRA -- 8 hours MRP

Other Pilot Matters -- Executive Director Moloney

1. The Board issued license renewals to SFBP Captains Alden, Haggerty, Kenyon, Larwood, Miller, Nyborg and Wainwright during the month of July 2008.
2. The Board received manpower reports and statements for pilotage fees and surcharges collected from SFBP through May and Inland Pilot Captain Slough through June 2008.

Port Agent's Report -- SFBP Captain Peter McIsaac

1. NFFD: Captain Morgan Hoburg is NFFD while being treated for a thyroid condition. He has been working as an Operations Pilot during his recuperation; Captain Frank Hoburg injured his knee on July 2, while disembarking from the POS JADE. He is currently being evaluated for knee replacement surgery and hopes to be back to work later this year; Captain Sweeney broke his shoulder on April 11, his next examination is July 29.

FFD: Captain Pinder was FFD July 1; Captain Wagner was FFD June 30; Captain Atthowe was FFD June 27; Captain Chapman was FFD July 23.

As of today SFBP have 60 licensed pilots. One license is suspended and 3 pilots are NFFD. This represents a considerable improvement in the number of pilots when compared to the previous six months.

2. Recommended Minimum Rest Period Exceptions: There were 57 in June:
7 occurred on June 3 with 3 pilots NFFD; 23 pilots were on the board
4 occurred before noon on June 4, when we changed the watch, 3 pilots were NFFD; 23 pilots were on the board

3 more occurred after noon on June 4, with 1 pilot suspended, 1 riding for recency, 1 NFFD, 1 pulled pilot business.
3 occurred on June 5, 24 pilots were on the board.
1 occurred June 11, 24 pilots were on the board
2 occurred on June 17, 4 pilots were NFFD and 2 were pulled pilot business, 20 pilots were on the board.
1 occurred June 18, 20 pilots were on the board.
3 occurred on June 23 with 2 NFFD, 1 suspended and 3 training, 22 pilots were on the board.
5 occurred June 25, 21 pilots were on the board.
The shortest MRP was 7.8 hours. While there was a large number of exceptions in June; half occurred over a 2-day span that was extremely busy while there were only 21 pilots on the board due to training and NFFD.

3. Boat Report:
P/V GOLDEN GATE - issues with the new generator keel coolers will delay delivery until August 6, 2008.
P/V PITTSBURG - is in the yard in Sausalito undergoing normal maintenance and repairs. Expected return to service is July 28.

New Build - The hull plating is on-site and is being formed. The project is on schedule.

Annual dry dockings for the P/V CALIFORNIA and the P/V SAN FRANCISCO have been postponed to a later date to be determined.

4. Billed vessel moves through June 2008 compared to 3-year average:

Bar Crossings	-0.5%
Bay Moves	+6.3%
River Moves	-21.2%
Total Moves	-0.2%
GRT	+3.7%

When compared to the first six months of 2007 total moves are down 2.3% and GRT is down 1.6%.

Unfinished Business

1. Board office lease -- Executive Director Moloney reported there are no new developments on the lease to report.
2. Open Incidents -- Executive Director Moloney
 - a. M/V COSCO BUSAN, allision while underway with Bay Bridge, November 7, 2007, SFBP Captain John Cota - report on status of scheduling hearing (currently September 2, 2008); review Captain Cota's notice of retirement, proposed stipulation of dismissal; **possible Board action re same**

Board Counsel Gary Gleason gave the following report:

On November 7, 2007: The M/V COSCO BUSAN allided with the tower of the San Francisco - Oakland Bay Bridge as it was making passage from the port of Oakland to the Golden Gate. Captain John Cota was the pilot aboard the vessel at the time of the allision. An Incident Review Committee investigated and thereafter this Board suspended Captain Cota's license pending a full hearing on the incident. The suspension was procedural in nature as opposed to being based on a finding of fault.

On December 6, 2007: The IRC filed an Accusation against Captain Cota for misconduct in relation to the COSCO BUSAN incident. The board cannot impose monetary penalties, but may only address the status of a pilot's license. It was the intent of IRC counsel to request revocation of Captain Cota's license at the conclusion of the hearing, and barring that a suspension of the license.

On December 20, 2007: Captain Cota filed a Notice of Defense to the Accusation. Shortly after the Notice was filed and pursuant to its own rules, the Office of Administrative Law immediately set the matter for a hearing to start on April 28, 2008. The hearing length was estimated by the parties to be 20 full hearing days. While an ALJ would preside over the hearing, members of this Board would sit as the triers of fact and render any decision.

In February of 2008, Captain Cota sought a continuance of the hearing. Judge Crowell, the administrative law judge assigned to this matter continued the hearing to September 2, 2008. The continuance was in part to allow additional time for preparation and to gain access to information outside of either party's control.

On June 6, Captain Cota requested another continuance. The IRC opposed this request. Judge Crowell denied the request for continuance and maintained the September 2 hearing date.

In June Captain Cota provided notice of his retirement effective October 1, 2008.

On the basis of his pending retirement, a stipulation was recently entered into between the IRC and Captain Cota. By way of this stipulation, the accusation will be conditionally dismissed until Captain Cota's retirement becomes effective on October 1, 2008. Thereafter it will be formally and fully dismissed. In the interim, and pursuant to the terms of the stipulation, Captain Cota cannot withdraw his request for retirement.

This stipulation was entered into by the IRC for the reason that by giving notice of his retirement, Captain Cota has rendered moot any action that counsel could ask this Board to take at the conclusion of the hearing. Furthermore proceeding to a lengthy hearing that would have no practical impact would represent a waste of financial and judicial resources, as well as the time and efforts of this Board.

Based on the foregoing, as counsel for the IRC, Mr. Gleason requested that the Board consider and approve the Stipulation. Copies of the stipulation were distributed. Copies are available in the Board office.

It was moved and seconded to approve the Stipulation and present it for consideration to the Administrative Law Judge signed by the Board President. Commissioner Miller asked for comments from the public and discussion. There were no comments from the public and no discussion. The motion passed unanimously.

- b. M/V MORNING CHARM, allision Benicia Berth 2 while docking, February 21, 2008, SFBP Captain Chapman – further report -- Executive Director Moloney reported that Captain Chapman had been out of town recovering from knee surgery and unavailable to meet with the IRC and that the final report is not completed and that the IRC requests an extension until the next Board meeting.

It was moved and seconded to extend the IRC report until the next Board meeting. Commissioner Miller asked for comments from the public and discussion. There were no further comments or discussion. The motion passed unanimously.

- c. ex-USS TRIPOLI, allision, Ocean Marine Terminal while docking, April 4, 2008 -- Executive Director Moloney reported the final report is not completed and that the IRC requests an extension until the next Board meeting.

It was moved and seconded to extend the IRC report until the next Board meeting. Commissioner Miller asked for comments from the public and discussion. There were no comments and no discussion. The motion passed unanimously.

- d. M/V ST. NICHOLAS, allision with Parr 5A, Richmond while docking, June 13, 2008 -- Executive Director Moloney reported that the investigation is in progress.

3. Vessel Interactions -- Executive Director Moloney
 - a. M/V STAR ISOLDANA/GOLDEN ARROW, Stockton, Berth 10, June 1, 2008 -- Executive Director Moloney reported that the investigation is in progress.
4. Pilot Ladder reportable incidents -- Executive Director Moloney said there were no reportable incidents.
5. Rules and Regulations Committee -- Commissioner Wainwright said there is no report.
6. Finance Committee -- Commissioner Osen -- report on July 24, 2008 -- Commissioner Osen said the meeting was cancelled and it is anticipated the next Committee meeting will be held before the next Board meeting.
7. Pilot Training Curriculum Committee -- Commissioner Wagner reported that a meeting would be scheduled before the next Board meeting.
8. Pilot Evaluation Committee -- See beginning of minutes.
9. Pilot Power Committee -- Commissioner Wagner -- report on July 23, 2008 meeting; possible recommendation to contract with additional candidates on eligibility list to enter pilot trainee training program; **possible Board action re same**

Commissioner Wagner reported that the Committee met July 23, 2008. The Committee reviewed the Regulation 237(d) data for the first six months of 2008 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.

The retirement survey indicates that eight pilots anticipate retirement by January 1, 2011. Due to two recent resignations, (one in June and one in July) there are only six trainees in the training program. Therefore, the Committee recommends that two trainees be added to the training program as soon as possible.

It was moved and seconded to authorize the Board President and/or Executive Director to execute all necessary documents to contract with two trainees for entry into the training program effective September 1, 2008, or as soon thereafter as the contract can be executed. Commissioner Miller asked for comments from the public and discussion. There were no comments and no discussion. The motion passed unanimously.

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

10. Pension Committee -- Commissioners Tate/Miller -- Report on status of requests for offer/proposals by third party contractors to provide actuarial study. Possible discussion on audit of 2007 receipts and disbursements with respect to the San Francisco Pilot Pension Plan

Commissioner Miller reported that Contracts Department DCA has completed the Invitation for Bid and has received a number of responses. The award will be based on the lowest bidder's price. The study is to begin in August and completed in September 2008.

The Fiduciary will fully take over the next quarter starting October 1, 2008.

Commissioner Miller asked if there were any comments or questions of the audit of 2007 receipts and disbursements with respect to the San Francisco Pilot Pension Plan that was sent to the Board for review. It was moved and seconded to accept the audit of 2007 receipts and disbursements with respect to the San Francisco Pilot Pension Plan. Commissioner Miller asked for comments from the public and discussion. There were no comments and no discussion. The motion passed unanimously.

11. Ad Hoc Committee on Pilot Safety -- Commissioner Soares -- Commissioner Miller said there is no report.
12. Pilot Vessel Advisory Committee -- Captain Figari -- Committee member, Mr. Jacob, PMSA Vice President, who was in the audience said there is no report.
13. UPRR Bridge -- Executive Director Moloney said there is no report.

14. Ad Hoc Advisory Committee on Pilot Selection -- Commissioner Tate said there is a meeting scheduled for August 19, 2008. A notice will be mailed accordingly.
15. Navigation Technology Committee -- Commissioner Johnston said there is no report.

New Business

1. Public Comment on matters not on the agenda

Commissioner Johnston read the following report: The Incident Review Committee has explored means of improving its resources for subject matter expertise and its reporting procedures and proposes to make the following adjustments.

First, the IRC proposes to consult with the Port Agent or a member of the Pilot Evaluation Committee designated by the Port Agent and a serving or recently retired master mariner with at least ten years' sailing experience from a list proposed by industry representatives as resources for subject matter expertise on specific shiphandling, navigation or piloting issues as part of the IRC's investigation and evaluation process before completing its report and determining appropriate corrective action. The IRC's use of these proposed resources are expected to result in improved investigation reports and evaluations.

Second, the IRC proposes to distribute a copy of the Findings of Fact portion of the IRC's report to all Board members and to the pilot involved in the investigation ten (10) days prior to the Board meeting at which the full report will be given. The rule prohibiting the members of the IRC or its investigators from discussing the investigation with the Board prior to the presentation of the completed report in a public meeting would still apply (and would also apply to the pilot and master mariner acting as subject matter expert). The distribution of the Findings of Fact prior to the Board meeting would permit the Board members to read and consider the findings to be sufficiently familiar with them for a meaningful discussion immediately following the presentation of the full report.

From my preliminary discussions, I understand that, at least during a test period the services of the Port Agent or PEC member and those of the master mariner would be at no cost to the IRC or the Board.

The Board members briefly discussed the proposal and the need to receive public comment before further consideration.

It was moved and seconded to add this item to the agenda for the August Board meeting. Commissioner Miller asked for comments from the public and discussion. Mr. Jacob, PMSA Vice President suggested that the IRC host a meeting for this discussion. It was noted that this item of discussion would be better addressed by the full Board. The motion passed unanimously.

2. Proposals for additions to next month's agenda

Commissioner Wagner requested that the following item be returned to the agenda:

Pilot Identification Cards -- Executive Director Moloney -- status of obtaining a more substantial Pilot I.D. card.

Schedule next meeting -- In view of the schedules of several Board members the next Board meeting was scheduled for August 21, 2008 at 9:30. There will be a Finance Committee meeting at 8:30 a.m.

Adjournment -- the meeting was adjourned at 12:45 p.m.

Respectfully submitted,

Alice A. Evans
Secretary