

Minutes
August 21, 2008

OPEN MEETING

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 August 21, 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 July 24, 2008 regular Board meeting. Board Secretary noted a correction to Item 7 of the Curriculum report. The report should read, "Commissioner Wagner reported that a meeting would be scheduled before the next Board meeting."

The minutes were unanimously approved as corrected.

President's Report -- Commissioner Miller reported that the ongoing issues he has been involved with will be reported during the various committee reports. He noted that the Board's party submission to the NTSB was forwarded to all members. The submission clarifies various actions of the Board. Copies are available in the Board office. The Board's COSCO BUSAN investigation will be reported on at a later date. The ALJ has agreed to the conditional dismissal of the accusation. The IRC is not fully able to respond to any questions at this time until the dismissal is final.

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

1. The Board received a letter dated July 28, 2008 from SFBP Captain Sam Hartshorn notification of his retirement date of October 1, 2008.
2. The Board received a letter dated August 12, 2008 from Rosa Maria Moller, Ph.D., California Research Bureau, California State Library, regarding request of information on audits.

The Board responded by email dated August 14, 2008.

Executive Director Moloney noted that this is the first time the Board has received a from this state agency.

3. The Board received a letter dated August 18, 2008 from SFBP Captain Peter McIsaac, Port Agent, regarding pilot fitness and medical reporting and review.

Other Pilot Matters -- Executive Director Moloney

1. There are no license renewals during the month of August.
2. The Board received manpower reports and statements for Pilotage fees and surcharges collected from SFBP through June and Inland Pilot Captain Slough through July 2008.

Port Agent's Report -- SFBP Captain Peter McIsaac

1. NFFD: Captain Morgan Hoburg is NFFD while being treated for thyroid condition. He has been working as an operations pilot during his recuperation. Captain Frank Hoburg injured his knee on July 2. He has been scheduled for knee replacement surgery in mid-September. Captain Sweeney broke his shoulder on April 11. He is expected to be FFD September 1.
2. Recommended Minimum Rest Period Exceptions: There were none in July. Captain McIsaac noted that all but three pilots are now fit for duty and that they are working with full boards.
3. Rescue: On August 6 a lineman was thrown into the Oakland Estuary when a stern line broke as a container vessel was making fast. The man suffered a badly broken arm. The pilot boat EAGLET happened to be in the area, retrieved the man and eventually put him safely ashore. The rescue was complicated by the fact that all the ladders have been removed from the dock face, due to security concerns. It was low tide and the pilot boat could not push on the dock since there is no face pile or ladders to work against. The pilot had to release a tug, which was able to push against the dock. The pilot boat then went alongside the tug and transferred the littered patient over to the tug, which then passed him up to the waiting paramedics. If a boat had not been in the immediate vicinity the lack of ladders could have cost the man his life.

Commissioner Miller commended the skill of the crew and operator of the EAGLET in successfully effecting this rescue. It was moved and seconded to commend the crew and pilot of the EAGLET for the rescue of the lineman in the Oakland Estuary August 6, 2008. Commissioner Miller asked for comments from the public and discussion. There were no comments and no discussion. The motion passed unanimously.

Commissioners requested that a letter be sent to the crew and pilot noting this commendation and signed by the Board president.

Port Agent Captain McIsaac noted that he would set a meeting to discuss the lack of ladders in the Oakland Estuary with the Port of Oakland Wharfinger to resolve this safety issue.

Unfinished Business

1. Board office lease -- Executive Director Moloney
2. Open Incidents -- Executive Director Moloney

Commissioner Miller noted that additional time would be taken to answer questions after reading the Findings of Facts.

- a. M/V COSCO BUSAN, allision while underway with Bay Bridge, November 7, 2007, SFBP Captain John Cota - report on ALJ's order vacating hearing date.

Board Counsel Gary Gleason reported that the Stipulation was filed with the Administrative Law Judge who ordered the September 2 hearing off calendar. A status conference is scheduled for October 4, 2008. When Captain Cota's retirement becomes effective, the surrender of his state license will be final and the Accusation against that license will be dismissed.

- b. M/V MORNING CHARM, allision Benicia Berth 2 while docking, February 21, 2008, SFBP Captain Chapman – further report -- Executive Director Moloney distributed copies of the Findings of Facts and gave the following report.

PROBABLE CAUSE

On the evening of 21 Feb. 2008, Capt David Chapman and accompanied by a Trainee were on the pilot boat waiting to board the auto carrier MORNING CHARM at the offshore pilot station. At about 1900 Capt Chapman received a cell phone call from Capt Holl, advising him that about a month before Capt Holl was docking the same vessel and experienced an engine failure when he asked for a backing bell. At about 1930 Capt Chapman and the trainee boarded the vessel.

The MORNING CHARM is an early generation car carrier and is 30 years old. The master advised that the engine would not start astern at speeds over three knots.

The transit to Benicia was uneventful, with the trainee doing the conning. Near Benicia the vessel was met by the docking tugs; both were Z-drive tractor tugs. At 2229 the *Resolute* put a line to the port quarter hull chock and at 2234 the *Delta Linda* put a line up to the stem.

The vessel was steered about 200' off the pier and the engine stopped. The after tug was backed to take the way off the vessel and when the speed was down to 0.9 knot by GPS, the engine was ordered slow astern (2234), but failed to start. The after tug was directed to back at a 45° angle to take more way off and start the turn to starboard for a starboard side to docking.

While the tug was turning the vessel the engine order telegraph was placed on stop. After several minutes the master reported that the engine was back on line. At that point the flood current and wind were moving the vessel up the face of the pier at about half a knot and the vessel was closing the pier. At 2241 Capt Chapman ordered right 20° rudder and slow ahead. The engine failed to start again.

The tugs were advised what had happened and the after tug directed to pull full power away to lift the stern away from the pier. The forward tug was directed to pull full power away, in line, toward Martinez (the other side of the strait). Capt Chapman directed that the starboard anchor be let go, but the Master did not carry that order out.

At 2243, before the forward tug could take the sternway off the vessel, the stern allided with the pier in the area of the transom and starboard quarter. Damage to the vessel was minor with scraped paint and a dent on the corner of the transom. The fendering system on the pier was damaged as the vessel's stern drifted in the wind and current. Damage included two concrete pilings, two rubber fenders, about 50 feet of exposed electrical and water piping and about 8 feet of crushed concrete caprail wher the flare of the transom reached past the fendering. Estimated repair cost is about \$185,000.

The tugs pulled the vessel clear of the pier and were then used to turn it parallel to the pier. At 2247 the engine was ordered slow ahead and responded successfully and was used for the remainder of the docking. At 2318 the vessel was securely moored and the tugs let go. At 2340 the pilot and trainee departed the vessel and went for substance testing (negative).

The engine problem was later found to be low starting air pressure for the main engine. Several months later the vessel called again and experienced the same engine failure problems. The USCG was notified.

OPINIONS

1. Environmental conditions were routine and not an issue
2. Communications, both internal and external were good.
3. Two tractor tugs were used and were properly made up for docking the vessel under its own power, however; considering the warnings about engine problems, should have been made up for handling a flat tow (no power).
4. The vessel was a 30 year old, early generation car carrier with some peculiar maneuvering characteristics which were clearly communicated to Capt Chapman.
5. The engine failed to start at the first astern order of the evening. Vessel speed was well within the maneuvering parameters outlined by the master.
6. Capt Chapman began maneuvering the vessel with the after tug while waiting for a status report from the engine room. When the engineers reported ready he attempted to maneuver the vessel away from the pier using engine and rudder, but the engine failed to start again.

7. Wind and current were setting the vessel toward the pier. The tugs were directed to slow and turn the vessel, but needed time to work into their lines.
8. Eleven minutes after the first engine failure, the vessel allided with the pier causing modest damage to the vessel including scraped paint and a dent on the starboard corner of the transom. The overhang of the transom caused damage to exposed piping and the fendering system as the current pushed the vessel up the pier. A portion of caprail was crushed before the tugs worked into their lines and pulled the vessel clear.
9. Following the initial engine failure, the vessel could have been hauled into the stream, turned, anchored, and had the tugs made up to handle it as a flat tow.
10. Following the allision, the engine was restarted and was used successfully to dock the vessel without further event.

RECOMMENDATIONS

1. Close this case. Pilot in error. Capt Chapman had a good docking plan for turning and docking the vessel under its own power, but did not take into account the warning he had received on the pilot boat. Engine failure at a critical point in the turn caused him to alter the plan and use the tugs to arrest the vessel's movement. The opportunity to pull the vessel clear of the pier and reposition the tugs was not taken. A second engine failure prevented lifting the vessel's stern away from the pier causing an allision. The allision damaged about 50 feet of exposed piping on the pier and crushed about 8 feet of concrete caprail.
2. In interview with Capt Chapman, he agreed that this docking could have been better handled. He knows where the error was and remedial rides are not considered necessary. Capt Chapman will conduct a "chalk talk" for the trainees at a near future Pilot Evaluation Committee meeting to discuss the incident and lessons learned. The IRC will advise the Board when this has been completed.

Various terminology items were discussed and clarified for Board members and the audience.

It was moved and seconded to accept the IRC report. Commissioner Miller asked for comments from the public and discussion. Commissioner Johnston noted that he and Captain Moloney had discussed with Captain Chapman, in detail, that the best remedy was to present a lesson learned at a chalk talk with the Trainees. There were no further comments or discussion. The motion passed unanimously.

- c. ex-USS TRIPOLI, allision, Ocean Marine Terminal while docking, April 4, 2008, SFBP Captain E. D. Melvin.

Executive Director Moloney distributed copies of the Findings of Facts and gave the following report.

PROBABLE CAUSE

On the morning of 04 April 2008, Capt Melvin, accompanied by a trainee, was assigned to shift the ex-USS TRIPOLI between piers at the Ocean Marine Terminal in Concord. The TRIPOLI is a decommissioned amphibious assault ship. It was decommissioned in 1995 and is on loan to the US Army. It is used as a launch platform for missiles in the ballistic missile defense program. The vessel is towed to test sites and lay berths. It was initially located at Pier 2 and was to be shifted to Pier 3 to load material, then shifted to Pier 4.

The vessel had three tugs assigned. The *Marshall Foss* was made up on the port quarter with two head lines and a spring line and would serve as the vessel's power in lieu of its engine. The *Patricia Anne* was on the port bow with a line up, and the *Arthur Foss* was on the centerline aft with a line up. All three tugs were tractor tugs.

Capt Melvin and the trainee boarded the vessel on the port (offshore) side via tug. The vessel's riding crew brought in the mooring lines and Capt Melvin had the tugs pull it off Pier 2. Pier 3 has buoyed booms at either end that extend about 350' off the pier.

Capt Melvin had to take the vessel almost to the ship channel to get past the booms. He then brought it in at a steep angle to get close to the pier. When the vessel was nearly alongside the pier he brought it almost parallel, but maintained a slight angle to reduce exposure of the vessel's port side to the 15-20 kt WNW wind.

Capt Melvin landed the bow of the vessel on the forward Yokohama fender. He considered the landing to be gentle, but observed the single piling the fender was resting on fold under the pier. The vessel was brought parallel to the pier and the crew completed the mooring. Capt Melvin noted that the individuals on the pier appeared to be agitated and contacted the Port Agent to report the situation. The Port Agent then contacted the Pilot Commission and Board Investigator Capt William Smith was dispatched.

After transfer of material at Pier 3 the vessel was shifted to Pier 4. There was a report that the vessel broke another piling at Pier 4 because a Yokohama fender was resting on a single piling and tugs were "applying continuous excessive force". Capt Melvin noted in his report that after seeing the piling fold under Pier 3 made "one of the most conservative landings I have made during the course of my piloting career". After the vessel was securely moored at Pier 4, Capt Melvin and the trainee disembarked to a tug and returned to Pier 3 to meet their transportation back to the pilot office. Board Investigator Capt Smith was at Pier 4 at the time discussing the situation with the project manager, who he noted was a civil engineer without maritime experience. Capt Smith did not witness either landing.

Following the incident, the Port Agent contacted the Commanding Officer (C.O.) of the Concord Naval Weapons Station. They discussed the issue at length and after having been advised on the problem of Yokohama fenders resting on single pilings at the waterline and the concentration of pressure at the weakest point, the C.O. agreed to look into the matter, but considered the issue resolved. He declined an offer to meet with Capts McIsaac and Melvin.

It was moved and seconded to accept the IRC report. Commissioner Miller asked for comments from the public and discussion. Executive Director Moloney illustrated what a Yokohama Fender was and how it is intended to work. There were no further comments or discussion. The motion passed unanimously.

- d. M/V ST. NICHOLAS, allision with Parr 5A, Richmond while docking, June 13, 2008
- e. M/V RATU TEMBAGA, allision with RWC 3, Redwood City while docking, July 24, 2008

Executive Director Moloney reported that items d. and e. remain under investigation and would be presented at a later date.

- 3. Vessel Interactions -- Executive Director Moloney
 - a. M/V STAR ISOLDANA/GOLDEN ARROW, Stockton, Berth 10, June 1, 2008 -- remains under investigation.
- 4. Pilot Ladder reportable incidents -- Executive Director Moloney reported there are no pilot ladder incidents to report.
- 5. Rules and Regulations Committee -- Commissioner Wainwright said there is no report. Commissioner Miller requested that the committee meet to review upcoming rulemaking, rulemaking process and prioritize same.
- 6. Finance Committee -- Commissioner Osen -- report on July 24, 2008 meeting -- possible recommendations if warranted as follows: Possible need for **Budget Change Proposal** (BCP) to seek expenditure authority as necessary to fund: (1) the Board's anticipated legal defense costs in the COSCO BUSAN litigation; (2) projected increases in training expenses due to increased travel expenses, expansion of training in advanced electronic navigation technology, and changes in the exchange rate with the Euro; and (3) other potential increases in the Board's expenses identified by the Committee; Review **Pilot Vessel Surcharge** rate (currently 7.03 mils effective July 1, 2008 (previous 6.05 mils effective January 1, 2008)); Review **BOPC Fund Condition**, revenue and expenditure projections; including (a) **Board Operations Surcharge** (currently 2.4%); (b) **Pilot Training Surcharge** (currently \$45/move), and (c) **Trainee Training Surcharge** (currently \$9/trainee/move); possible recommendations to adjust one or more of the surcharge rates as warranted -- **possible Board action re same**

Commissioner Osen reported that the Committee met today and reviewed all items on the agenda. The Committee recommends in the form of motion to authorize Board staff and president to prepare and submit to the Department of Finance an augmentation request for FY 08/09 and a **Budget Change Proposal (BCP)** for FY 09/10 and 10/11 to seek expenditure authority as necessary to fund: (1) the Board's anticipated legal defense costs in the COSCO BUSAN litigation; (2) projected increases in training expenses due to increased travel expenses, expansion of training in advanced electronic navigation technology, and changes in the exchange rate with the Euro; and (3) other potential increases in the Board's expenses identified by the Committee. Commissioner Miller asked for comments from the public and discussion. It was noted that the augmentation and budget change proposal would be submitted by September 12, 2008 and that adjustments can be made as necessary after that date. There were no further comments or discussion. The motion passed unanimously.

Commissioner Osen reported that the Finance Committee would meet September 10, 2008 at 9:00 a.m. to review the augmentation and BCP before submittal to DOF.

7. Pilot Training Curriculum Committee -- Commissioner Wagner -- report on August 20, 2008 meeting; possible recommendations to amend/revise; training curriculum for serving pilots; **possible Board action re same**

Commissioner Wagner reported that the Curriculum Committee met August 20, 2008 and reviewed the curriculum for the combination course bridge resource management required by Regulation Section 215 (b)(2). Currently the course is 6 and 1/2 days in length and taught by MITAGS. The contract with MITAGS expires in June 2009.

The Committee considered enhancing the advanced electronic navigation component as per the Navigation Technology Committee recommendation and Board direction. Commissioner Johnston and Executive Director Moloney will attend the next bridge resource management class beginning September 20, 2008 at MITAGS in order to review the course content. The committee plans to meet again in late September upon their return and consider options for providing enhanced training in advanced electronic navigation.

The Committee also discussed training to be provided in conjunction with the Board's anticipated requirement for pilots to use Portable Pilot Units (PPU's), which is in the pre-rulemaking stage. The Committee agreed that any rulemaking on the subject of PPU's should address training requirements, consisting of initial and refresher training to pilots and pilot trainees in the use of PPU's and their associated software. Funding for such training, including clear authorization for the use of pilot and pilot trainee training surcharge funds should also be addressed.

8. Pilot Evaluation Committee -- Capt. Roberts -- report on August 20, 2008 meeting; possible recommendation to suspend or place on probation one or more trainees on and/or to issue Certificate of Completion and license to one or more trainees if warranted; if there is a recommendation to suspend a trainee, place a trainee on probation or to review a trainee's medical status, it may be heard and considered in closed session at end of agenda as authorized by Government Code Section 11126(a)(1); **possible Board action re same**

SFBP Port Agent Captain McIsaac gave the following report for Captain Roberts.

The Pilot Evaluation Committee met on August 20, 2008, at 0700. 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 8months, (2) at 1 year 2 month, (1) at 1 year and 5 months, and (1) at 1 year and 8 months.

Most trainees are proceeding satisfactorily and at their own speed. One trainee was counseled on specific areas requiring improvement to ensure that he will be able to make adequate progress in the training program. One trainee is on probation and is continuing his progress in the training program. The PEC will report to you on that progress at the September monthly meeting. One trainee's fitness for duty status is pending a report from the Board examining physician.

9. Pilot Power Committee -- Commissioner Wagner said there is no report.
10. Pension Committee -- Commissioners Tate/Miller -- Report on status of requests for offer/proposals by third party contractors to provide actuarial study.

Commissioner Miller reported that the actuary firm has been identified. An award of the contract cannot be made until adoption of a state budget. The start and completion dates will be changed accordingly.

11. Ad Hoc Committee on Pilot Safety -- Commissioner Soares said there is no report. Commissioner Soares reported that he would work with Port Agent Captain McIsaac to address the lack of ladders in the Oakland Estuary with the Port of Oakland Wharfanger to resolve the safety issue.
12. Pilot Vessel Advisory Committee -- Captain Figari -- Mr. Ken Levin, SFBP Business Director who was in the audience reported that the SFBP would submit final cost figures to the Finance Committee before the next Board meeting.
13. UPRR Bridge -- Executive Director said that there is no report.

14. Ad Hoc Advisory Committee on Pilot Selection -- Commissioner Tate -- Report on August 19, 2008 committee meeting; possible recommendations regarding selection criteria and recruiting practices.

The Ad Hoc Advisory Committee on Pilot Selection met on August 19, 2008. The discussion related to recruitment practices continued with a special guest from California Maritime Academy, Captain Shirley Kohlwes. She shared with the Committee practices that have been used at CMA to help recruit and place minority candidates.

The Committee also continued the discussion related to the 2-year command time requirement to determine if it was a barrier to recruitment efforts. The Committee decided to table that discussion until an overall recruitment strategy was developed.

The Committee also discussed apprenticeship programs used in some other locations as a tool to increase the candidate pool. The Committee tabled that discussion until an overall recruitment plan was developed.

Next steps: (1) Draw up plans for Committee discussion on short-term recruiting tactics; (2) Continue the discussion on long-term recruiting effort to increase the candidate pool.

15. Navigation Technology Committee -- Commissioner Johnston said there is no report.

16. Incident Review Committee Reporting Procedures -- Commissioner Johnston -- IRC proposal to consult with Port Agent and designated master mariners as subject matter experts during investigations; IRC proposal to provide Findings of Fact from incident investigations to Board members in advance of Board meeting at which completed report will be presented; possible Board action to approve same. (Note: These proposals are not rulemaking proposals, as these practices are not covered by the Board's regulations. Public comment as to the proposals, including whether they should be covered in the Board's regulations is invited.)

Commissioner Johnston reported that a request was received from Mr. Mike Jacob, Vice President PMSA, to discuss this item at a later date as he could not be present at today's meeting.

Mr. Gunnar Lundeberg, who was in the audience expressed his concern that delaying discussion is not beneficial to the Board and requested the Board hear his comments at this time.

Mr. Lundeberg comment 1: Instead of consulting with Port Agent and designated master mariners, it would be beneficial to bring in retired pilots; comment 2: Distribution of findings of facts before Commission is unfair to the pilot to have information distributed and conclusions made beforehand.

Commissioner Miller thanked Mr. Lundeberg for his concern and comments and noted that this item will remain on the agenda for further discussion. Commissioner Johnston said the IRC would take these suggestions into consideration and further discussion.

17. Pilot Identification Cards -- Executive Director Moloney -- status of obtaining a more substantial Pilot I.D. card. -- Executive Director Moloney said there is no report at this time.

H. New Business

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

Schedule next meeting -- the next Board meeting is scheduled for September 26, 2008 (Friday) at 9:30 a.m., in the Board office. This date change is due to scheduling conflicts.

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

- (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 Closed Meeting 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 Closed Meeting Agenda Item 2, which identified the litigation to be discussed. That closed session is authorized by Government Code Section 11126(e) (1).

Resumed Open Meeting at 12:10 p.m.

Commissioner Miller reported that the Board had just completed a closed session. There was no Pilot Evaluation Committee recommendation to discuss. The Board confirmed with its legal counsel regarding the pending litigation against the Board identified above - Agenda Item 2 (a). Board Counsel, Executive Director and Secretary left the room and the Board discussed the performance evaluation of the Executive Director. No Board action was taken on any item.

Adjournment -- the meeting was adjourned at 12:15 p.m.

Respectfully submitted,

Alice A. Evans
Secretary