

Minutes

November 20, 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 office, Pier 9 Suite 102, San Francisco, CA commencing at 9:30 a.m. on November 20, 2008. Commissioner Miller presiding. A quorum was present including Commissioners Johnston, Osen, Soares, Tate, Wagner and Wainwright. Also present were Port Agent McIsaac, Board Counsel Paetzold, Executive Director Moloney and Secretary Evans.

Request approval of Minutes of the October 23, 2008 regular Board meeting. (Including announcement of Board actions taken during closed meeting at the conclusion of the September 26, 2008 regular Board meeting.) The minutes were unanimously approved. Commissioner Miller reported that there was no Board action taken in the closed meeting at the end of the October Board meeting.

President's Report -- Commissioner Miller gave an overview of SB 1627 and noted that he and other Commissioners have been in contact with various personnel from Business Transportation and Housing Agency, including Mr. John Hummer Deputy Secretary for Goods Movement who will be responsible for this Board's oversight and transition of the Board into BTH.

Commissioner Miller reported that he and Executive Director Moloney, Commissioners Johnston, Soares and Wainwright and SFBP Port Agent McIsaac attended the Regional Meeting of State Boards of Pilot Commissioners in Portland, Oregon November 6 and 7, 2008.

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

1. The Board received a letter from Edmund G. Brown Jr., Attorney General, dated October 30, 2008, regarding State of CA et al. v. Infineon Technologies et al, request for records .

The Board responded to inquiry November 13, 2008.

2. The Board received a letter dated November 5, 2008 from Pacific Merchant Shipping Association regarding the Regional Meeting of State Boards of Pilot Commissioners in Portland, Oregon November 6 and 7, 2008.
3. The Board forwarded a letter dated November 17, 2008 to Pacific Merchant Shipping Association regarding the Regional Meeting of State Boards of Pilot Commissioners in Portland, Oregon November 6 and 7, 2008. (Discussed under New Business below.)
4. The Board received a letter on November 18, 2008, that was dated November 2, 2008, from Captain Thomas File (Discussed under New Business below.) regarding his intention to appeal the not-fit-for-duty determination.

5. The Board received a letter dated November 12, 2008, from Ghirardo, CPA forwarding November 2008 Participant Allocation and Mill Calculation Schedules.
6. The Board received a letter dated November 13, 2008, from San Francisco Bar Pilots regarding Request for Preliminary Authorization of \$7,418,641 for Construction of new Station Boat.

Other Pilot Matters -- Executive Director Moloney

1. The Board issued licenses to SFBP Captains Dowdle and Simenstad during the month of November 2008.
2. The Board has received manpower reports and statements for Pilotage fees and surcharges collected from SFBP through September and Inland Pilot Captain Slough through October 2008.

Port Agent's Report -- SFBP Captain Peter McIsaac

1. NFFD: Captain Frank Hoburg has been NFFD since July 2, while recovering from a knee injury and subsequent knee replacement surgery. He intends to retire December 31, 2008. Captain Gans has been NFFD since September 3 while being treated for a condition not related to piloting; Captain Pinetti has been NFFD since October 22 after undergoing knee replacement surgery; Captain McBride was NFFD from October 15 through November 11 while recovering from 3 cracked ribs; Captain Greig was NFFD from November 3 - 6 after injuring his wrist while boarding off at sea; Captain Kleess was unavailable for assignment from October 31 through November 6 as per the BOPC physician; Captain Welch has been unavailable for assignment since November 12 as per the BOPC physician.

Captain McIsaac noted that there are 4 pilots currently NFFD and that over this period of the time there was a total of 7 pilots NFFD.

2. **Recommended Minimum Rest Period Exceptions:**
There were 21 in October; 1 occurred on Oct 6th; 1 pilot was NFFD and 1 was pulled pilot business, 25 pilots were on the board (OTB). 3 occurred on Oct 9th; 1 pilot was NFFD and 1 was pulled pilot business, 24 pilots were OTB. 2 occurred on Oct 15th; 1 pilot was NFFD and 3 pilots were pulled pilot business, 25 pilots were OTB. 2 occurred on Oct 18th; 3 pilots were NFFD and 1 was on comp, 25 pilots were OTB. 7 occurred on Oct 23rd; 3 pilots were NFFD, 1 pulled pilot business, 2 were on comp, 1 was riding for recency, 19 pilots were OTB. 5 occurred on Oct 24th; 3 pilots were NFFD, 1 on comp and 1 pilot was riding for recency, 21 pilots were OTB. 1 occurred on Oct 29th; 2 pilots were NFFD, 25 pilots were OTB.

The shortest MRP was 8.4 hours. Two of the exceptions were caused by river pilots being called in early for a river transit.

3. Portable Piloting Units - after a thorough review of 8 different software packages the SFBP Nav Tech committee has recommended the Rosepoint Electronic Charting Software (ECS). The software has been ordered and received. Two different built to order hardware platforms are currently being evaluated. Training is scheduled to start in January.
4. Billed Vessel Moves through October 2008 compared to 3-year average

Bar Crossings:	- 1.2%
Bay Moves:	+ 2.8%
River Moves:	- 16.3%
Total Moves:	-1.1%
Gross Registered Tonnage:	+ 4.0%

When compared to the first ten months of 2007 total moves are down 1.5 % and GRT was slightly positive. September and October were stronger than expected given the state of the economy although Nov month-to-date has been weak.

Unfinished Business

1. Board office lease -- Executive Director Moloney reported that the lease remains on a month-to-month basis.
2. Open Incidents -- Executive Director Moloney
 - a. M/V RATU TEMBAGA, allision with RWC 3, Redwood City while docking, July 24, 2008, Captain Horton -- Executive Director Moloney distributed findings of facts and Commissioner Miller requested a 10-minute recess to allow enough time to read the findings of facts.

PROBABLE CAUSE

M/V RATU TEMBAGA is a Panamanian flag bulk freighter with a Chinese crew. The vessel is single screw, fixed pitch, right turning propeller. There is no bow thruster. It is 555.4' long, 89.3' wide and was light, drawing 13' 00" fwd and 18' 00" aft.

At the time of the incident the wind was N'yly at 20 kts. Visibility was clear, the tide was 4.6 feet and rising. There was negligible current at the piers in Redwood City.

On the morning of 24 July 2008, Capt Horton boarded the bulk freighter RATU TEMBAGA at the offshore pilot station to pilot the vessel to Redwood City, Berth 3 to load scrap.

Capt Horton boarded at 1105. The transit of the bar and San Francisco Bay were uneventful. As the vessel approached Redwood Creek, Capt Horton had the tug *Patriot* put two lines up to the starboard bow. *Patriot* is a conventional twin screw 4,000 bhp tug. He had the tug *Delta Captain* run close to the port bow with no lines up. It is twin screw with kort nozzles, 1,800 bhp. After transiting Redwood Creek and approaching the port, the *Delta Captain* was shifted to the starboard quarter, just forward of the house. After getting his line up the tug operator advised Capt Horton he would have to keep his bow angled in to keep away from the vessel's counter. This caused the tug to be pushing the stern during the approach to the berth.

As the vessel entered the port area it was at dead slow ahead. Capt Horton was backing the forward tug to reduce the speed. At 1412 he ordered stop engine, but found the wind was setting the ship toward the piers too fast. He ordered the after tug to back full, had the vessel's rudder put hard left and engine half ahead to lift the stern. The vessel's port quarter was setting down on a dolphin located between Berths 2 and 3 and he wanted to get the vessel clear of it.

At 1413, with the vessel's stern clear of the dolphin, Capt Horton had the starboard anchor let go, then stopped the engine. At 1414 the engine was ordered full astern. At about 1415 the vessel landed hard on berth 3 about 200 feet back from the bow. The vessel still had some headway on but the engine speed was dropped to half astern and at 1416 the engine was stopped. The vessel was then backed into position, recovering the anchor as it went. The remainder of the docking was uneventful.

In interview Capt Horton noted that he heard from the operator of the *Patriot* that the *Delta Captain* had been pushing on the vessel virtually the entire approach and that it was hardly ever used for ship assist work.

Aside from a two foot by three-foot scrape in the paint on the hull, there was no damage to the ship. There was some crumbled concrete at the corner of the fendering system. The damage is considered cosmetic by the port and there is no intention to repair it.

OPINIONS

1. Fatigue was not an issue. Capt Horton was well rested.
2. Communications were not a problem. The Master spoke adequate maritime English.
3. Due to the strong N'y wind, vessel speed had to be kept up to maintain control. Most of the maneuvering was at dead slow and slow ahead. Backing the forward tug to reduce speed was prudent.
4. Use of the *Delta Captain* for the second tug was not a good idea, but by the time Capt Horton arrived at Redwood Creek it was too late to do anything about it. The tug is not normally used in ship assist operations. It has kort nozzles, which enhance its propeller thrust ahead and astern but severely reduce its maneuverability compared to a conventional twin screw boat with exposed propellers. The nozzles virtually eliminate the "paddlewheel effect" of open propellers.
5. In interview, Capt Horton noted that had he realized the limitations of the after tug he would have held farther north on his approach to the berth and used the anchor earlier as a maneuvering aid.

RECOMMENDATIONS

1. Close this case. Minor pilot error. The strong N'ly wind caused the vessel to be set down toward the piers and a dolphin between them, but this is not an extraordinary condition in Redwood City in the afternoon. Capt Horton's actions minimized the effects, but did not prevent the hard landing on and overshooting Berth 3. The non-responsiveness of the after tug was a significant factor in this incident. The damages to vessel and pier were cosmetic and no claims were filed.

It was moved and seconded to accept the IRC Report. Commissioner Miller asked for comments from the audience and further discussion. Terminology questions of dolphin and kort nozzles were answered and it was noted that the pilot had evaluated his own work and acknowledged his error. It was clarified that the agent takes direction from owners on the number and type of tugs are needed to move a vessel. Mr. Toledo, Dept. of Fish and Game, who was in the audience, inquired of ship's speed. Executive Director Moloney stated that the speed was dead slow and that the tug on the bow was being backed. There were no further comments from the audience and discussion. The motion passed unanimously.

- b. M/V DELTA PRIDE, Fender damage while docking, Bay Bulk Terminal Pittsburg, August 27, 2008

The IRC requested an extension until the next Board meeting. It was moved and seconded to extend the 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.

- c. M/V TINA LITRICO, allision with MANSON BARGE, RCH 20 (Parr 5-B), October 9, 2008 -- Executive Director Moloney said this incident remains under investigation.

3. Vessel Interactions -- Executive Director Moloney

- a. M/V STAR HIDRA/HANJIN BOMBAY, Bay Bulk Terminal Pittsburg, July 4, 2008 -- Executive Director Moloney distributed findings of facts and Commissioner Miller noted a 10-minute recess to give time for everyone to read the report.

PROBABLE CAUSE

On the morning of 04 July 2008, Capt Slough boarded the bulk freighter M/V STAR HIDRA off the San Francisco city front. The vessel was to be piloted to Stockton, Berth 15. The transit of San Francisco, San Pablo and Suisun Bays were uneventful. At 1424 the vessel was approaching Port Chicago. Capt Slough called VTS to report his position and requested they call Bay Bulk Terminal by landline and advise them that the vessel would pass their facility in about a half an hour. The terminal later confirmed that they received the call.

At 1451 the vessel was slowed to half ahead on approach to New York Point; the speed was further reduced to slow ahead at 1452. At 1458 the vessel turned into New York Slough. Once the vessel had made the turn into West Reach and was steady in the channel, speed was reduced to dead slow ahead (1501) to approach the HANJIN BOMBAY, moored at Bay Bulk Terminal.

At 1506 with the vessel on close approach to HANJIN BOMBAY, the engine was stopped. Capt Slough observed that the HANJIN BOMBAY's mooring lines were tight. As the vessel coasted by the HANJIN BOMBAY that vessel was pulled away from the dock then surged back in. This damaged the wooden shore gangway. At 1508, with the vessels clear of each other, the engine was placed at dead slow ahead to regain steerageway. Capt Slough noted the speed by GPS on his PPU (personal pilot unit) to be 5.9 knots over ground. With the flood current this is 4.5 knots through the water.

At 1512 the vessel passed the DELTA PRIDE moored at the USS/POSCO terminal uneventfully and increased speed to slow ahead. Once clear of that vessel, speed was increased to half ahead. The vessel moored at Stockton at 2030.

During the transit Capt Slough was contacted by his wife who told him that the agent for the HANJIN BOMBAY had called his house advising of the interaction. He called the agent and described his actions and the vessel's speed. The terminal subsequently repaired the wooden gangway themselves and do not intend to make any claim. Capt Slough talked with terminal representatives who indicated they would be more proactive in getting vessel personnel on deck to tend lines

OPINIONS

1. Environmental conditions were routine. Visibility was good with minimal wind.
2. Fatigue was not a factor.
3. Capt Slough was prudent in having the terminal notified of his impending transit.
4. Capt Slough progressively reduced the vessel's speed to bare steerageway as he approached Bay Bulk Terminal. There was no performance pressure to get the vessel to Stockton at a certain time.
5. The vessel crew and mechanical performance was good.

RECOMMENDATIONS

1. Close this case. No pilot error. The terminal was notified of the passing of the vessel well ahead of time. Terminal personnel told Capt Slough they would be more proactive in getting ship crews on deck to tend lines.

Executive Director Moloney noted that the vessel had left port but that the investigator did meet with the terminal personnel who confirmed the slack lines on the moored vessel. It was noted and discussed that the bell book record was provided by the pilot and that whenever possible a copy should be obtained from the ship directly.

It was moved and seconded to accept the IRC report. Commissioner Miller asked for comments from the public and discussion. There were no comments and no further discussion. The motion passed unanimously.

Commissioner Johnston noted that the IRC's goal is to have all open incident investigations completed and reported by the end of 2008.

4. Pilot Ladder reportable incidents -- Executive Director Moloney said there are no reportable pilot ladder incidents.
5. Non-incidents -- Executive Director Moloney
 - a. Sailing Vessel MALTESE FALCON and sailing vessel STAND BY collision, October 4, 2008. Executive Director Moloney gave an overview of the events that led to the collision. He reported that he boarded the MALTESE FALCON and met with the Captain, who acknowledged and confirmed SFBP Captain Fuller's report. A signed copy of that report is in Captain Fuller's file. It was noted that Captain Fuller was not at the conn when the collision happened and that the IRC determined this to be a non-incident.

It was moved and seconded to accept the IRC's findings that this is a non-incident. Commissioner Miller asked for comments from the public and discussion. There were no comments and no discussion. The motion passed unanimously.

Commissioner Miller noted that this category would remain on the agenda for a placeholder for reporting purposes only.

6. Rules and Regulations Committee -- Commissioner Wainwright said there is no report.
7. Finance Committee -- Commissioner Osen -- report on November 19, 2008 Committee meeting, status of Budget Change Proposal to seek expenditure authority for anticipated legal defense costs in COSCO BUSAN litigation; review **BOPC Fund Condition**, revenue and expenditure projections; including
 - (a) Board Operations Surcharge (currently 2.4%); (b) Pilot Training Surcharge (currently \$45/move), (c) Trainee Training Surcharge (currently \$9/trainee/move); and (d) Pilot Vessel Surcharge (currently 10.74 mils); possible recommendations to adjust one or more of the surcharge rates as warranted -- **possible Board action re same**
 - (b) Report on inquiry to budget analyst regarding interpretation of HNC 1159.1 regarding legal expenses resulting from the COSCO BUSAN incident.

Commissioner Osen reported that the Committee met November 19, 2008 and reviewed the anticipated expenses for legal defense costs in the COSCO BUSAN litigation and for the audit expenses.

Commissioner Osen noted the question of how the Budget office interprets HNC 1159.1 regarding legal expenses and judgment or settlement costs should there be any due to the COSCO BUSAN incident was forwarded to the Attorney General's office for clarification. The Board discussed the anticipated defense costs, upcoming audit, and the need to build up the Fund Condition to ensure adequate reserves.

Commissioner Osen reported that based on the recommendations of the DCA budget analyst the Committee recommends in the form of a motion to increase the Board operation surcharge to 6.6% effective January 1, 2009. Commissioner Miller asked for comments from the public and for discussion. There were no comments and no further discussion. The motion passed unanimously.

8. Pilot Training Curriculum Committee -- Commissioner Wagner -- report on November 19, 2008 meeting; report of training curriculum for serving pilots, including enhanced training in electronic navigation systems and other requirements set forth in Board regulations, Title 7 Calif. Code of Regulations Section 215(b)(2); possible training curriculum recommendation; possible recommendation regarding amendment of Board Regulation **possible Board action re same**

Commissioner Wagner reported that the Committee met November 19, 2008. The Committee reviewed the training cycle required by Section 215(b)(2) for bridge resource management and the training curriculum for serving pilots, including enhanced training in electronic navigation systems. The Committee also reviewed proposals by prospective providers. The Committee has no recommendation to take action at this time. The next Committee meeting is tentatively scheduled for December 3, 2008 at 1:30 p.m. at the Board office.

9. Pilot Evaluation Committee -- Capt. Roberts -- report on November 19, 2008 meeting; possible recommendation to amend conditions of probation or take other action authorized by Section 214(f) of the Board's regulations; possible recommendation to place trainee on probation or suspend from training; 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**

Captain Roberts reported that the Pilot Evaluation Committee met on November 19, 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 two months; (2) at 11 months; (1) at 1 year 5 months; (1) at 1 year and 8 months; and (1) at 1 year and 11 months. Most trainees are proceeding satisfactorily and at their own progress. One trainee is on probation and a progress report will be made in closed session today.

10. Pilot Power Committee -- Commissioner Wagner said there is no report.

11. Pension Committee -- Commissioners Tate/Miller -- Report on status of actuarial study. Commissioner Miller noted that an informal meeting was held with the EFI, Ghirardo, SFBP, PMSA and Board representatives to exchange information. The contract completion end date has been extended to April 1, 2009. Mr. Mike Jacob, VP PMSA, who was in the audience thanked the Board and noted that the study is proceeding very well.
12. Ad Hoc Committee on Pilot Safety -- Commissioner Soares said there is no report.
13. Pilot Vessel Advisory Committee -- Captain Figari -- Mr. Mike Jacob, VP PMSA, who was in the audience reported that a meeting would be scheduled sometime in January 2009.
14. UPRR Bridge -- Executive Director said there is no report. It was reported that the PEC has tasked the trainees to write questions on the UPRR Bridge protocol that can be used as testing for future trainees.
15. Ad Hoc Advisory Committee on Pilot Selection -- Commissioner Tate reported that BTH has indicated that there may be BTH resources available that the Committee can utilize.
16. Navigation Technology Committee -- Commissioner Johnston said there is no report.
17. Incident Review Committee Reporting Procedures -- Commissioner Johnston said there is no report.
18. Pilot Identification Cards -- Executive Director Moloney -- status of obtaining a more substantial Pilot I.D. card. -- Executive Director Moloney said there is no report and that various resources will be contacted.

New Business

1. Discussion -- Pilot's role when refused the conn -- Commissioner Johnston noted that this item was on the agenda as a placeholder and that the subject was discussed and resolved in item 5 above.
2. Report on Regional Pilot Regulators Meeting -- Portland, OR, November 6-7, 2008 -- Commissioner Miller, Executive Director Moloney

Commissioner Miller reported that he and Executive Director Moloney participated in a regional meeting of pilot commissions hosted by the Oregon Board of Maritime Pilots on November 6 and 7, 2008. The meeting was noticed under Oregon's open meeting laws and was open to the public. Commissioners Johnston, Soares and Wainwright attended as members of the public. The meeting was well-attended by the Board of Maritime Pilots, Oregon, and by representatives from the Board of Pilot Commissioners, Washington, Alaska Board of Marine Pilots and Pacific Pilotage Authority, Canada. The agenda covered various subjects and interests of all commissions. Commissioner Miller noted that the information exchanged was very informative.

Commissioners Johnston and Miller expressed their concerns regarding the letter dated November 5, 2008 from Pacific Merchant Shipping Association contending that the meeting had not been properly noticed.

Mr. McLaurin, President PMSA, who was in the audience stated that PMSA's position remained unchanged. PMSA's letter, the Board's response and the response by the Washington Board are on file at the Board office. Commissioner Miller noted that DCA Legal had been consulted prior to the meeting to ensure Board compliance.

3. Recently-enacted SB 1627 and SB 1217 -- Commissioner Miller -- report on changes to Board structure, staffing, incident review procedures, and other changes mandated by the bills and discussion of the transition of the Board from independent agency to a constituent element of the Business, Transportation and Housing Agency; discussion of mandated rulemaking. **Possible Board action re same.**

Mr. Miller noted that BTH has suggested a redline analysis of the bills and the AGPA Lynda Jacobsen is currently working on this task. Board Counsel Paetzold gave an overview of both bills and upcoming changes to Board structure, staffing, incident review procedures, and other changes mandated by the bills to make the transition of the Board from independent agency to a constituent element of BTH. This item will remain on the agenda.

4. HNC Section 1171.5 (concerning licensing standards), Board regulation 217 (Medical Examination) and US Coast Guard NVIC No. 04-08 (Sep. 15, 2008): Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials -- Commissioner Miller -- discussion of whether to amend Board regulation to replace current SHIP Committee standards with USCG NVIC standards. **Possible Board action re same.**

Commissioner Miller noted that this item is at this time for discussion only. Board Counsel Paetzold noted that the USCG is now using US Coast Guard NVIC No. 04-08 for medical examination procedures and fitness standards which all pilots must meet in addition to the Board's procedures and standards. The Yee Bill will require rulemaking changes to change the Board's regulations on this topic, at which time a review of the NVIC and the degree to which it may replace or supplement SHIPS may be appropriate. There is no Board action at this time.

5. Public comment on matters not on the agenda -- Mr. Levin, SFBP Business Director, who was in the audience inquired of the lawsuits pending due the COSCO BUSAN. Board Counsel Paetzold briefly explained that the Board was dismissed from one of the lawsuits. A motion to dismiss the Board from a second suit is expected to be filed in early December. There is nothing further to report at this time.

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

Schedule next meeting -- the next meeting is scheduled for December 18, 2008 at 9:30 a.m. in the Board office.

The meeting was closed at 11:40 a.m.

RESUME OPEN MEETING

Announce Board actions taken in closed meeting in accordance with Open Meeting Act requirements. (Any such announcements will be repeated at the Board's December meeting.)

Commissioner Miller reported there was no action taken on the pending litigation and review of Executive Director. There was action taken on a trainee's probation to amend the conditions of probation and to extend the time to meet the conditions as amended.

Adjournment -- the meeting was adjourned at 2:15 p.m.

Respectfully submitted,

Alice A. Evans
Secretary