

Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun  
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July 8, 2009

## MINUTES

June 25, 2009

### OPEN MEETING

#### A. Call to Order and Roll Call: 9:35AM

All Board members were present, with the exception of President K. Michael Miller. BTH Deputy GC Gabor Morocz was present as delegate for Secretary Bonner. Also present: Executive Director Capt. Moloney; Port Agent Capt. McIsaac; Attorneys Dennis Eagan (from AG), Anita Scuri (DCA – acting as the Board’s government counsel) and Raymond Paetzold (maritime counsel)

#### B. Request Approval of Minutes

A motion was made and seconded to approve the April 23, 2009 and May 28, 2009 regular Board meeting Minutes.

Commissioner Roberts asked for the inclusion of Captain Melvin’s chalk talk reference in the May 2009 minutes. The April minutes were approved as written. The May minutes were approved as amended.

#### C. President’s Report

There was none.

#### D. Comments from Secretary, Business, Transportation and Housing Agency - Gabor Morocz

Mr. Morocz gave an update regarding Board vacancies. The Governor’s office advised that candidates were being interviewed for the dry cargo position on the Board and for the new Assistant Director position. Mr. Morocz also gave a detailed explanation of the funding sources for the BOPC. The BOPC is self-funded and that it does not receive funding from the General Fund. Mr. Morocz also stated that the Governor’s office had recently issued an Executive Order by which all funds for contracts entered into after March 1, 2009 for goods and services were disencumbered. It was noted that exemptions were made for contracts that affect public safety. Because the BOPC falls under this exemption clause, most contracts would likely receive an exemption. Capt Moloney stated that he was currently pursuing those exemptions with the Department of Finance, with the pilot trainees contracts as the first priority. Other exemptions that

<u>Contract #</u>	<u>Vendor</u>	<u>Type of Service</u>	<u>Amount</u>	<u>Terms/Dates</u>
000-0010-9	MITAGS	Pilot Training	\$465,000	07/01/09-06/30/12
000-0045-9	Emard, Danoff, & Paetzold LLP	Legal	\$300,000	07/01/09-06/30/10
000-0046-9	Farbstein & Blackman	Legal	\$30,000	07/01/09-06/30/10
000-0557-6	SFBP	Pilot Training	\$601,500	07/01/06-06/30/11
000-0568-8	Marine Services & Consulting	Investigations	\$21,000	05/01/09-04/30/12
000-0263-8	EFI Actuaries	Pension Plan Study	\$12,018	10/21/08-08/31/09

The Board directed Capt Moloney to prepare an inventory of all contracts and work with the Finance Committee to prepare recommendations for Board approval to ensure timely compliance with the Executive Order.

Mr. Morocz then stated that the BOPC would need to reduce non-exempt operating expenditures by 15 percent at the start of the 09-10 Fiscal Year. The spending reduction plan would need to be submitted within 30 days after the State Budget is approved by the Governor.

Mr. Morocz reported that SB 300 was scheduled to be heard in Assembly Transportation on July 6, 2009.

**E. Correspondence/Activities since the May 2009 Meeting - Executive Director Moloney**

- 27 May 09 COSCO BUSAN Report from Hong Kong Marine Department
- 01 June 09 Letter from Calif State Controller inquiring about late payments to vendors; there were none to report.
- 01 June 09 Letter from Office of Atty General advising that Dennis Eagan has been assigned to assist the Board.
- 04 June 09 Letter from Office of Atty General advising that three invoices had not been paid. Letter forwarded to DCA for payment.
- 08 June 09 Executive order from Office of the Governor S-09-09
- 09 June 09 Office of Admin Services, DCA, letter advising cost quotes needed for office supplies. Letter referred to DCA budget analyst.
- 09 June 09 Letter from Ghirardo CPA with quarterly pension plan rates
- 09 June 09 Letter from Port of Stockton with list of Stockton pilots
- 10 June 09 Copied a letter from SFBP to local Corps of Engineers requesting emergency dredging in Bulls Head Channel
- 10 June 09 Letter from SFBP with Request for Necessity Determination regarding ABS load line modifications to P/V's CALIFORNIA and SAN FRANCISCO
- 15 June 09 Letter from Capt L. Teague advising intent to retire 01 Oct 09
- 19 June 09 Preliminary Incident Report from Acting Port Agent advising of a hard landing of an auto carrier in Richmond
- 23 June 09 Contract request form from Business Services Office for UCSF Medical Center contract

**F. Other Pilot Matters- Executive Director Moloney**  
None to Report.

**G. Port Agent's Report - SFBP Captain Peter McIsaac**  
**NFFD:**

Captain Welch has been unavailable for assignment since Nov 12<sup>th</sup> as per BOPC physician. Commissioner Wainwright noted that there was no regulatory basis for a finding that a pilot was unavailable for assignment and requested that staff research whether Captain Welch is or is not FFD as required by Section 217 of the Board regulations. Executive Director Moloney stated that he would request a determination from the Board physician that complied with the regulation.

Captain Larwood had arm surgery on April 1<sup>st</sup> and is expected to be NFFD until late July. He is currently working in the ops office.

Two additional pilots are scheduled for surgery next week, one major and one minor.

**New Build-** progress has been slowed due to discrepancies in the drawings. There was a schedule review at the yard yesterday and the new delivery date has been pushed back to Sept. 12<sup>th</sup>.

**Load Line Modification-** as previously discussed the PV's CA and SF now requires a load line certificate. The applications have been turned in to the American Bureau of Shipping. Required minor modifications, such as raising the sill height and adding additional railing, will be done as part of the annual yard period.

**P/V CALIFORNIA** is out of service for two days undergoing railing repairs. On June 19<sup>th</sup> the Drake landed heavy while transferring a light pilot at sea in storm like conditions; estimated damage is \$12K.

**P/V Golden Gate-** was taken out of service two different times, for a total of 12 hours, due to leaks to an after cooler. Temporary repairs were made; a permanent solution is being engineered.

**VTS-** there was a near miss near the sea buoy in early April. A north bound vessel, which had just disembarked a pilot, turned in front of an inbound vessel. We have reviewed the incident with VTS and a number of changes to the traffic system are being considered.

**Recommended MRP Exceptions:** there were 6 over four days during the month of May. The shortest rest period was 10 hours and the average was 10.7. Board pilots ranged from 20 to 26.

#### **Billed Vessel Moves in May 09 compared to a 3 year average**

Bar X's: -4.7%

Bay Moves: -22.0%

River Moves: -22.7%

Total Moves: -9.0%

GRT: 28.9M -4.7%

First five months of 2009 total moves were down 6.7% and GRT was down 4.6%

#### **H. Unfinished Business**

1. Board Office Lease - Executive Director Moloney  
No change

2. Vessel Interactions -- Executive Director Moloney  
*M/V XIN NING BO* vessel interaction with *M/V BONASIA* at Oakland 65, February 7,

2009.

3. Open Incidents - Executive Director Moloney  
*M/V XIN NING BO*, report of excessive speed in Regulated Navigation Area; February 7, 2009

Executive Director Moloney stated that the reports on these two matters remained pending because the IRC had not met with the pilot and his counsel and the Executive Director had been fully engaged in responding to the auditors, the Executive Order, and other matters. In addition, the new guidelines required completion of the report in time to provide a copy to the pilot and his counsel well before the Board meeting. He requested on behalf of the IRC that the reports on these matters be postponed until the next Board meeting. To economize on resources, both incidents would be presented at the same time. A motion to postpone the IRC's reports on the *XIN NING BO* items until the next Board meeting was made, seconded and approved without further comment.

4. Pilot Ladder Reportable Incidents - Executive Director Moloney  
None to Report
5. Non-incidents - Executive Director Moloney  
None to Report.
6. Rules and Regulations Committee - Commissioner Wainwright  
None to Report

7. Finance Committee – Commissioner Osen  
Commissioner Osen reported on the Finance Committee's meeting held earlier that day. After discussing the Pilot Vessel Surcharge and noting the build up of a greater-than needed reserve due to the delay in the delivery of the new station boat, the Committee unanimously recommended that the Pilot Vessel Surcharge be reduced from its current level of 10.74 mils to 7.40 mils. A motion to reduce the Pilot Vessel Surcharge rate to 7.40 mils was made and seconded and passed without further comment.

There was further discussion on the effect of Executive Order S09-09 on Board operations, and in particular on the trainees who entered the training program after March 1, 2009. The Finance Committee will meet to consider the Executive Order and, with the assistance of BTH, to develop recommendations to the Board regarding its implementation.

8. Pilot Training Curriculum Committee – Commissioner Roberts  
None to Report
9. Pilot Evaluation Committee - Capt Nyborg  
Capt Nyborg recommended on behalf of the PEC Don Cloes for licensing.

Don Cloes was born and raised in Seattle, Washington where he started working in a family owned marine business and became the captain of a work boat in southern California at the age of 19. Upon arriving in San Francisco Bay in 1985, he started working on tow boats in the Bay Area.

Captain Cloes holds a 1600 ton Masters License for Any Ocean, Master of Towing Vessel

upon Oceans and Western Rivers, along with First Class Pilot endorsement for Vessels of any gross tons upon San Francisco Bay.

Prior to entering the Board's Pilot Trainee Training Program in January 2008, Captain Cloes worked for Foss Maritime Company in the San Francisco Bay. He served as Captain aboard conventional and Tractor tugs performing ship assists, handling oil barges throughout the Bay, and ocean tows up and down the west coast. Prior to his 8-year tenure at Foss, Captain Cloes worked for Am Nav Maritime Services among other towing companies over his thirty year career.

To date, Captain Cloes has a total of 500 trips in the training program, riding as observer on 111 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 319 jobs.

Captain Cloes has worked extensively with members of the Pilot Evaluation Committee, acquiring more than the 50 rides required by law (80), with 24 of those rides completed within the last 90 days.

A motion to issue a certificate of completion and a pilot's license to Trainee Captain Don Cloes was made, seconded and passed unanimously. Captain Nyborg noted that Trainee Cloes had done exceptional work in the training program. Following the Board action Trainee Cloes complimented the Board the PEC on the quality of the training program.

Capt Nyborg also asked that an item be added to the July Board meeting agenda regarding sending PEC committee members to the PMI Train-The-Trainer course with possibility of Board action.

10. Pilot Power Committee - Commissioner Roberts

Commissioner Roberts reported that the next committee meeting will be held before the July Board meeting to review the results of the current retirement survey and the updated Section 237(d) data.

11. Pension Committee - Commissioners Tate

Nothing to report.

12. Pilot Vessel Advisory Committee – Commissioner Johnston -

Reconsideration of motion to issue Necessity Determination and Preliminary Authorization for strengthening apron at Pier 9 to accommodate new station boat, in the projected amount of \$123,460 made at May 28, 2009 meeting:

A motion to table the discussion on this item until the next meeting was made, seconded and carried without further comment.

13. UPRR Bridge - Executive Director Moloney

Nothing to report.

14. Ad Hoc Advisory Committee on Pilot Selection - Commissioner Tate

Nothing to report.

15. Navigation Technology Committee - Commissioner Johnston  
Nothing to report.
16. Pilot Identification Cards - Executive Director Moloney/Commissioner Osen  
Nothing new to report.
17. Ad Hoc Committee to Review Investigation Procedures - Commissioner Osen  
Nothing to report.
18. Pilot Trainee Selection Process – Captain Nyborg  
Captain Nyborg noted that there were only two qualified applicants left on the current eligibility list in the event additional trainees were needed to enter the training program. The goal of the PEC is to have a new selection examination ready for the first quarter of 2010. The preparation of the simulator portion is going very well but the assistance of the psychometricians is needed to move forward on the written examination, and to finalize the grading points for the simulator test. Approval of the contract for those services remains pending as a result of the Executive Order.
19. Pilot Fitness Committee – Commissioner Roberts –  
Commissioner Roberts gave an update as to the status of the contracting with UCSF for scope of work approved at May 28 Board meeting. The next Committee meeting is scheduled for July 21, 2009.
20. Board Audit -  
The auditors were not present. It was recommended that the Board should be prepared to provide a prompt response to the final draft audit report once it is issued.

## **I. New Business**

### **J. Public Comment on Matters not on the Agenda**

1. Executive Director said there was a new incident reported:  
*M/V MORNING MERMAID*, hard landing, Richmond Berth 8, June 19, 2009.
2. A motion to commend Ms. Scuri for her years of service as the Board's government counsel, and for her dedication and advice was made and seconded. After further comments thanking Ms. Scuri for her work for the Board, the motion was passed unanimously.

Commissioner Johnston expressed his concern on the limitations imposed on the public member serving on the IRC from participating in the Board's deliberations and requested the Executive Director to obtain a written legal opinion on the subject.

### **K. Proposals for Additions to Next Month's Agenda**

In addition to the items in the minutes above, Committee Chairs were requested to routinely inform Board staff at least 10 days before the next Board meeting of any action items, and that, when formulating their committee agendas, consideration be given to whether the committee will be making recommendations to the Board or seeking Board action so that those items can be included on the Board's agenda.

## **CLOSED MEETING**

There was no closed session

### **L. Announcements**

There were none.

### **M. Adjournment**

The Board adjourned at 11:15 AM