

**BOARD OF PILOT COMMISSIONERS  
MINUTES April 18, 2002**

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun regular meeting was held in the Port of San Francisco, Bayside Room #1, Pier One, San Francisco, CA, commencing at 9:30 a.m. on Thursday April 18, 2002, Commissioner Falaschi presiding. A quorum was present, including Commissioners Lundeborg, Rosequist, Wagner, Welch and Winn. Also in attendance were Port Agent Captain McIsaac, Board Counsel Ray Paetzold, and BOPC Secretary Alice Evans and various members of the public.

The Minutes of the March 28, 2002, meeting were unanimously approved as amended. Page 1, Port Agents Report #3. 2<sup>nd</sup> line, after "the", add "research vessel ZEPHYR" and parenthesis around (former P/V SAN FRANCISCO).

Correspondence and Activities since the March meeting – Secretary Alice Evans

1. The Board received a letter from SFBP Captain Herbert P. Rosen, dated April 1, 2002, regarding his intention to retire from the active roster of the San Francisco Bar Pilot Association effective June 30, 2002.
2. The Board received a letter from Kevin Q. Davis, dated April 12, 2002, regarding SFBP Rate Case Prehearing Conference.
3. The Board received Office of Administrative Law Notice of Approval of Regulatory Action File No. 02-0304-04S, dated April 4, 2002, Section 237 Hearing to Determine Number of Licensed Pilots.
4. The Board received a letter from Department of Justice, Pamela Smith-Steward, Chief Assistant Attorney General, dated April 11, 2002, re consent to the employment of counsel (Paetzold, White & Brodsky) other than the Attorney General.

Other Pilot Matters – Secretary Alice Evans

1. The Board issued license renewals to SFBP Captains Dohm, Hoburg, Lemke, Melvin and Pinder during the month of April.
2. The Board has received the manpower reports and statements for pilotage fees and surcharges collected from SFBP through January 2002 and Inland Pilot Slough through December 2001. Copies are available in the Board office.

Port Agent's Report -- Port Agent Captain McIsaac

1. There are currently three pilots NFFD. Captain Rosen will be off the board until May 15, 2002, recovering from back surgery. Captain Hughes continues under a doctor's care for a condition unrelated to work. Captain Simenstad continues to recover from shoulder surgery and expects to be FFD in early June. Captain Wells was declared FFD April 5, 2002.
2. There were two MRP violations on April 5. The shortest rest period was eleven hours. Four pilots were off the board, two NFFD, one on comp time and one pulled personal.

3. The first passenger vessel of the season due to call on Monterey Harbor is the STAR PRINCESS on May 5. The pilot will board the vessel in San Diego and stay aboard to pilot it in/out of Monterey and into San Francisco.
4. The SFBP public website currently has a link to our real-time dispatch list. One of the tanker companies and the agent for the public vessels that call on the bay expressed concern over having that information so easily available. In the near future, SFBP will remove that link and limit access to only the USCG and the Marine Exchange.
5. The SFBP and Industry representatives will meet on Friday April 20, 2002, in another attempt to reach a negotiated rate agreement.
6. Through March 2002:
 

|               |        |
|---------------|--------|
| Bar Crossings | -5.1%  |
| Bay Moves     | -18.7% |
| River Moves   | +11.9% |
| Total Moves   | -7.2%  |
| GRT           | -3.4%  |

Compared to same time last year.

#### Unfinished Business

1. Open Incidents – Commissioner Lundeberg reported that the IRC was unable to meet with the pilots and attorneys regarding the two open incidents because of scheduling problems.

It was moved and seconded to continue extensions to both incidents. Commissioner Falaschi asked for discussion. It was discussed and concurred to direct Board staff to forward correspondence to pilot and pilot representative regarding prompt reporting. The time frame for the extension was discussed. The motion was amended to include until the next Board meeting. There being no further discussion the motion passed unanimously.

- a. M/V ORIENTAL HOPE, allision at Parr 5B, Richmond, August 27, 2001, Pilot Captain D. Keon
- b. M/V CEFALONIA, grounding San Joaquin River, light 56, January 8, 2002, Pilot Captain Steve Roberts
2. Pilot Ladder reportable incidents – Commissioner Lundeberg reported that there had been no reportable incidents since the last report.
3. Rules and Regulations Committee -- Commissioner Welch – no further report.
4. Finance Committee -- Commissioner Winn -- recommendation regarding use of Board operations reserves to fund trainee training program -- **possible Board action re same**

Commissioner Winn reported that the Finance Committee had previously discussed the funding of the Trainee Program at the March meeting. With the current surplus in the Board's funds the Committee feels no need to impose the Pilot Trainee Surcharge to fund the Trainee Program that will commence in the near future. It was moved and seconded that the Trainee Program be funded by the surplus in the Board Operations Fund until such time as the Board deems it necessary to implement the Pilot Trainee Training Surcharge. Commissioner Falaschi asked for discussion. There being no further discussion the motion passed unanimously.

Report on status of pilotage rate negotiations and agreement on expense items; possible recommendation to Board re same -- **possible Board action re same** – no further action required at this time.

It was noted that the Finance Committee has not yet scheduled their next meeting.

5. Pilot Training Curriculum Committee -- Commissioner Wagner reported that the MITAGS 1-day course will be given on June 19, 2002, at a cost of \$5,000 for up to 25 students. The per-student cost will depend on how many attend. All pilot groups in the country have been invited to send representatives. The Board has previously authorized SFBP to send two pilots to evaluate the course.
6. Ad Hoc Pilot Power Committee -- Commissioner Wagner – status report re recommendation to update the 1986 San Francisco Pilots Manpower Model – Commissioner Wagner reported that the Committee has not met since the last Board meeting and that there is no report.
7. Pilot Evaluation Committee -- SFBP Captain Melvin -- status report re simulator examination portion of Trainee Selection Process and meetings with Office of Examination Resources – SFBP Captain Melvin reported that the simulator examination is in place. The Office of Examination Resources has been very helpful. The written examination is scheduled for Monday April 22 and the simulator examination scheduled for April 25 and 26. It is anticipated there may be 52 participants.
8. Trainee Selection Process -- SFBP Captain Melvin/Executive Director Moloney -- status report (examinations scheduled for week of April 22, 2002) – reported under Pilot Evaluation Committee report above.
9. IMO STCW requirements; extending deadline for compliance – status report – Capt. Hereth, USCG Captain of the Port – discussion and determination of Board's position -- **possible Board action** – The Board discussed IMO's decision to extend the deadline for compliance with STCW 95 to July 31, 2002, the Board's mission for safety, and various positions that the Board may take. USCG representatives LCDR Daryl Cunningham, Ex. Officer VTS San Francisco and LCDR Kristin Williams, Sr. Investigating Officer, who were in the audience, said they will extend a request to Capt. Hereth to attend the next Board meeting or send a representative to address the USCG's position on this matter.

#### New Business

1. Public Comment on matters not on the agenda – there were none.
2. Proposals for additions to next month's agenda – the Pension Committee report on Harbors and Navigation Code, Section 1167 regarding the Review of Benefits – possible Board action
3. Election of Board President and Vice President – The current Board president and vice president have completed their first terms in office. Accordingly, it was moved and seconded to elect James Falaschi as president and Gunnar Lundeberg as vice president for a second one-year term. Commissioner Falaschi asked for discussion. There being no further discussion the motion passed unanimously.

4. Selection Appeals Committee – Commissioner Rosequist/Commissioner Welch – report on selection appeal guidelines and status of any appeals – Commissioner Welch reported that the Committee met April 15 in open session to address the matters set forth in the agenda. The Committee agreed to use the attached selection appeal guidelines (copy is on file in the Board office) for any appeals from the current trainee selection process, and to review those guidelines at the conclusion of the process before determining whether to recommend whether they be adopted in a regulation. The Committee agreed not to apply the time limits proposed in the guidelines until adequate notice had been given to potential candidates and any applicable rulemaking requirements had been met.

The Committee reviewed the appeal by applicant Capt. Joseph Martin. (Captain Martin did not appear in person or through counsel.) Captain Martin's application had been rejected by the Ex. Director on the grounds that the application did not contain supporting documentation to meet the recency of experience requirements of §213(e). Captain Martin's appeal contends that he would meet the recency requirements if the periods that he worked 12-hour days were counted as time and a half. (The USCG will count 12-hour days in limited situations as time and a half to meet its sea service requirements).

Under the authority of §213(m), the Committee rejected Captain Martin's appeal. In the Committee's view, the Board's experience requirements are clear and unambiguous. They require a minimum of "two years of performance" in specified command or piloting positions within the last five years, and one year of such experience within the last three years. Captain Martin did not meet those requirements, and the Committee did not find any basis to interpret the Board's regulations to allow for time and a half credit.

Captain Martin's appeal also contended that his experience ashore also met the waiver provision of §213(e)(4) c. That provision permits the Board to waive the second part of the recency requirement (one year command or piloting experience in the last three years) if the applicant provides verified documentation that he or she has been employed in the maritime industry in a position closely associated with the operation and navigation of vessels during at least two of the last three years. Captain Martin did not provide the verified documentation that met this waiver requirement.

A copy of the Committee's decision on appeal will be sent to Captain Martin by fax and mail following this meeting and is available as a public record. It was moved and seconded to accept the Committee's report. Commissioner Falaschi asked for discussion. There being no further discussion the motion passed unanimously.

Schedule next regular meeting – the next regular meeting is scheduled for May 23, 2002, at Pier 1, Bay Side Room #1, San Francisco, at 9:30 a.m.

Adjournment – the meeting was adjourned at 9:52 a.m.

Respectfully submitted,

Alice A. Evans  
Secretary