

BOARD OF PILOT COMMISSIONERS

Minutes October 23, 2003

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 Thursday, October 23, 2003, Commissioner Falaschi presiding. A quorum was present, including Commissioners Bayer, Lundeberg, Rosequist, Welch and Winn. Also in attendance were Acting Port Agent Blake Coney, Board Counsel Ray Paetzold, Executive Director Patrick Moloney and Secretary Alice Evans and various members of the public.

Request approval of Minutes of the September 25, 2003 regular Board meeting -- the minutes were unanimously approved.

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

1. The Board received a letter dated September 30, 2003 from SFBP Port Agent Captain McIsaac advising that Captain Blake Coney will serve as Acting Port Agent during October 9-14, 20-25 and October 29 - November 3, 2003.
2. The Board forwarded a letter dated September 30, 2003 to Deborah Reiger, State Information Security Officer regarding the BOPC Information Technology Security assessment.
3. The Board forwarded letters dated October 16, 2003 to SFBP Captains Greig, Haggerty, McBride, Pinder and Roberts advising of the BST training scheduled for October 20-24, 2003.
4. The Board received a letter dated October 20, 2003 from SFBP Captain Arthur J. Thomas, notifying the Board that he will retire as an active Pilot effective 0001, January 1, 2004.

Other Pilot Matters--Executive Director Moloney

1. The Board issued a license to Captain Boriolo during the month of October.
2. The Board has received the manpower reports and statements for pilotage fees and surcharges collected from SFBP through August and Inland Pilot Slough through September 2003. Copies are available in the Board office.

Port Agent's Report -- Acting Port Agent Captain Coney

1. Captain Bill Atthowe is recovering from a back injury and expects to return to duty November 1, 2003.
2. Captain John Weiss is hospitalized for a non-work related condition and will require an undetermined period of time to recover.
3. There was one 12-hour MRP violation on September 2, 2003. The shortest rest period was 9 hours and 50 minutes. There were four pilots off the board, two on pilot business and two pilots on comp time.
4. The P/V GOLDEN GATE has been in drydock since October 6 for annual maintenance and is expected to be back online next week.

5. Vessel movement report through September 2003; compared to three-year daily average:

Bar Crossings	+5.5%
Bay Moves	+8.7%
River Moves	-4.3%
Total Moves	+5.6%
Gross Tons	+9.0%

Unfinished Business

1. Open Incidents --Executive Director Moloney

- a. S/S MAUI, grounding, entrance to Oakland Estuary, January 28, 2003 SFBP Captain J. Weiss; hearing scheduled for December 3-5, Office of Administrative Hearings, Oakland -- updated hearing information as necessary -- Board Counsel reported that Captain Weiss' attorney, John Meadows, petitioned the presiding Administrative Law Judge (ALJ) for a continuance of the hearing, which the Board had scheduled for December 3-5, 2003, on grounds of medical necessity (Mr. Meadows has shoulder surgery scheduled for late November). In response, the ALJ has tentatively re-scheduled the hearing for January 7-9, 2004, subject to Board members' availability.

Following the Board's confirmation of the new hearing date, the ALJ is expected to schedule a pre-hearing conference to consider various motions by Respondent's counsel, which seek to challenge the Board's jurisdiction and competence to hear this matter.

The pre-hearing conference will be conducted by an Administrative Law Judge. Ordinarily only counsel for the parties attend the pre-hearing conference. The Board will be informed of the ALJ's rulings on the motions at the next Board meeting unless earlier notification is required or appropriate.

The Board members have confirmed their availability for the new hearing dates accordingly, no further Board action is required at this time.

- b. M/V S/R GALENA BAY, possible grounding approaching San Francisco Dry Dock and allision with Dolphin 6, August 26, 2003 -- Executive Director Moloney reported that this incident is under investigation.
- c. M/V WAN HAI 306, Near-miss near Golden Gate Bridge, September 14, 2003 -- Executive Director Moloney reported that this incident is under investigation.

2. Pilot Ladder reportable incidents --Executive Director Moloney

VESSEL	PILOT	DATE	DISCREPANCY
EVER DIADEM CIGNUS VOYAGER and many others	Crowell	10/13/03	On sideport or combination ladders only one siderope was made fast to hull, allowed ladder to rotate.
AMBERMAR	Lobo	10/14/03	Pilot ladder over 9m - had to rig combination ladder.
NAXIHE	Wagner	10/17/03	Man-ropes failed to meet size, length and construction requirements.

3. Rules and Regulations Committee--Commissioner Welch -- no report

4. Finance Committee--Commissioner Winn

Report on review of Pilot Training Surcharge (current \$20/move) - possible recommendation; **possible Board action** -- Commissioner Winn reported that the Committee met today and reviewed the SFBP variance report. No unusual items were noted and commented that SFBP is having a very strong financial year. The Committee reviewed the BOPC fund status. The surplus is decreasing. It is now approximately \$2.6M. The Committee also reviewed the Serving Pilot Training Surcharge and determined that the reserve is approximately 20 months. It concluded that there is no need to make a change to the surcharge at this time. The Committee will continue to regularly review the training surcharge and pilot vessel surcharge.

5. Pilot Training Curriculum Committee--Commissioner Wagner -- no report

6. Ad Hoc Committee on Trainee Selection--Commissioner Bayer -- Status report on review of trainee selection process

Commissioner Bayer reported that the Port Agent has appointed a focus group of six pilots with varying backgrounds and levels of piloting experience and the three current and recent trainees, who will meet with Doctors Hertz and Chinn on Wednesday, November 12, 2003 for an all-day review and update of the occupational analysis that forms the framework for the Board's trainee selection process.

An updated copy of the work plan/time line to ensure timely completion of the trainee selection review process and the implementation of any resulting recommendations adopted by the Board should be available by the next Board meeting (November 20).

7. Pilot Evaluation Committee--Capt. Melvin--Report on trainees' progress in training program -- Report on October 22, 2003 meeting -- Executive Director Moloney reported that the Committee reviewed the two trainees' progress and determined that they are progressing satisfactorily. There will be two new trainees starting November 3 and a third starting on December 1, 2003.

8. Vessel Interactions--Review incident frequency, Board's role in addressing the problem-- Commissioner Falaschi/Executive Director Moloney -- Commissioner Falaschi noted that items 8 and 9 continue as place holders.

9. Security assessment covering pilots' operations -- Commissioner Falaschi

10. UPRR Bridge - working group - Executive Director Moloney -- report on results of quarterly meeting of October 7, 2003 -- Board Counsel reported that the working group met October 7. Attending were representatives of the Coast Guard, UPRR, Amtrak - Capitol Corridor, the Bar Pilots and the Board. The communications protocol continues to work well on most occasions. There continues to be a need to get the word out to those tug operators who proceed without a bar pilot and are not familiar with the protocol. VTS and MSO are following up on an outreach program to that segment of the industry. There continue to be occasional incidents in which some pilots have been lax in following the protocol. Typically, the bridge operator has clarified the communication using the language in the protocol to ensure the communication was correctly understood. Reported incidents in which the pilot was unable to obtain a prompt response from the bridge operator continue to be rare and do not appear problematic.

The Capital Corridor representative reports satisfaction with the reduced level of train delays occasioned by the bridge being raised for vessel traffic. Overall, the pilots and bridge operators appear to be doing an excellent job in communicating competing needs to maximize vessel safety while minimizing unnecessary train delays. The next UPRR Bridge Working Group meeting is scheduled for April 13, 2004 unless a need for an earlier meeting becomes apparent.

G. New Business

1. Capt. Donald Hughes - ability to comply with standards of health or physical condition requisite to a pilot's duties - **possible Board action** to summarily suspend license pending a hearing pursuant to Harbors and Navigations Code §§1180, 1181.

A request was made by Captain Hughes' attorney, Mr. David Singlestad, who was in the audience, to have a court reporter transcribe this portion of the meeting and was so granted.

Board Counsel referred to the memo dated October 21 to all Board members (copy on file in the Board office) and gave the following report:

Section 1180 of the Harbors and Navigation Code and Section 221(b) of the Board's regulations provide for the temporary suspension of a pilot's license for up to 40 days when, in the opinion of the Board, there is reasonable cause to believe that the public interest requires such a summary suspension pending a hearing on charges of misconduct or when the Board has information which leads it to believe that a pilot has become unable to comply with the standards of health or physical condition requisite to a pilot's duties. He gave an overview of the timeframe to file an accusation and to hear the case following a summary suspension and provided a summary of the Incident Review Committee's allegations, including those involving a reported "near-miss".

The Board was cautioned not to reach conclusions on the merits of these allegations before full consideration of all the evidence presented at a hearing with an administrative law judge. The Board need only determine whether the public interest requires a temporary suspension of Captain Hughes' license pending such a hearing.

It was moved and seconded that Captain Donald Hughes' Pilot's License be temporarily suspended in accordance with Section 1180 of the Harbors and Navigation Code and Section 221(b) of the Board's Regulations. Commissioner Falaschi asked for discussion.

Mr. Singlestad commented that Captain Hughes is now on sick leave due to his apparent hearing loss; that he is consulting other doctors; that Captain Hughes was not the pilot of record in the alleged near miss; that the vessel had ample room during the alleged near miss; that Captain Hughes is prepared to sign a stipulation that he will not attempt to pilot without the permission of the Board and Port Agent; and that the Board was putting barriers in Captain Hughes' way to retire.

Commissioner Rosequist commented that Captain Hughes and Mr. Singlestad had been before the Board earlier this year regarding Captain Hughes' disability and that he felt it was important for the Board to follow a procedure provided by law to resolve the issues presented.

The Board discussed various procedural scenarios and other issues that may come before the Board if Captain Hughes' license is temporarily suspended. There being no further discussion Commissioner Falaschi asked for a roll call vote.

Commissioner Rosequist	YES
Commissioner Winn	YES
Commissioner Welch	YES
Commissioner Falaschi	YES
Commissioner Bayer	YES
Commissioner Lundeberg	Recused himself because he is a member of the IRC.

It was moved and seconded that the Board hear this matter sitting with an Administrative Law Judge. The target date for the hearing will be December 3 - 5, 2003 depending on the ALJ's availability. Commissioner Falaschi asked for discussion. It was discussed that if the parties can be ready to present this case at an earlier date, this date may be changed. There being no further discussion the motion passed unanimously.

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

Schedule next regular meeting

November 20, 2003 at 9:30 a.m.

December 18, 2003 - consider later starting time -- the starting time will be 10:45 a.m.

The Finance Committee will be scheduled for 10:15 a.m. the same day and place.

Adjournment -- the meeting was adjourned at 10:30 a.m.

Respectfully submitted,

Alice A. Evans
Secretary