

BOARD OF PILOT COMMISSIONERS
Minutes March 25, 2004

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, March 25, 2004 Commissioner Lundeberg presiding. A quorum was present, including Commissioners Bayer, Rosequist, Wagner, Welch and Winn. Also in attendance were Port Agent Pete McIsaac, Board Counsel Raymond Paetzold, Executive Director Patrick Moloney and Secretary Alice Evans and various members of the public.

Request approval of Minutes of the February 26, 2004 regular Board meeting. The minutes were unanimously approved.

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

1. The Board received a letter dated March 4, 2004 from SFBP announcing that Mr. Christopher O. Johnson entered the employment of the SFBP as Marine Superintendent March 1, 2004.
2. The Board received a letter dated March 8, 2004 from Andrea Lynn Hoch, Chief Assistant Attorney General, granting consent to the employment of counsel other than the Attorney General for house counsel/advice on issues requiring expertise in maritime law, pursuant to Government Code Section 11040.
3. The Board received a memo dated March 15, 2004 from Paul H. Dobson, Chief Deputy Legal Affairs Secretary, Office of the Governor, acknowledging receipt of BOPC February 10, 2004 report for Executive Order S-2-03 and that BOPC satisfied the precondition to continuing the regulatory process.

Other Pilot Matters--Executive Director Moloney

1. The Board issued a license renewal to Captain R. Nyborg during the month of March.
2. The Board has received the manpower reports and statements for pilotage fees and surcharges collected from SFBP through January 2004 and Inland Pilot Slough through February 2004. Copies are available in the Board office.

Port Agent's Report--Port Agent Captain McIsaac

1. There are currently three pilots NFFD:
Captain J. Weiss is recovering from a non-work related condition;
Captain Larwood is recovering from knee surgery;
Captain Rhodes is being treated for a condition not related to work, and
is expected to remain NFFD for an extended period of time.
2. At the September 2003 BOPC meeting it was reported that the inboard diesel rigid hull inflatable rescue boats that sit on the stern of the station boats had proven to be both impractical and unreliable. The SFBP entered into a contract with Northwind Marine to build two new outboard driven replacements that are undergoing sea trials in Puget Sound today. They are expected to be delivered in the near future and, after slight modifications to the station boat notch cradles, will be placed into service. Any monies from the sale of the old boats will be used to offset the approximate \$110k cost of the replacements.
3. The SFBP has entered into a long-term contract with the USCG to continue providing transportation support for the Sea Marshal program.
4. In 1999 a Federal ALJ found that Captain Tom Vilas, a SFBP, was guilty of negligence for grounding a tanker outside of a federally maintained channel. The charges were brought after a 15-minute grounding that took place while turning the tanker CHESAPEAKE TRADER off the Avon oil dock just upriver from the UPRR Bridge. There was no damage to the vessel or to the environment.

The ALJ suspended Captain Vilas' federal license for 10 months outright with an additional six months probation. The Commandant, on appeal, reduced the suspension to six months outright, noting that the original penalty "was obviously excessive and a gross departure from the Table of Recommended Awards in 46 CFR... The total sanction is seven months higher than the sanction imposed in the most egregious (in terms of results) grounding (EXXON VALDEZ) in recent history." The Commandant reduced the suspension to six months outright. Last week the NTSB upheld the suspension, so Captain Vilas has been unavailable to pilot since receiving the NTSB decision on March 22, 2004.

5. On March 3 there was one 12-hr MRP violation with a rest period of 11 hours. Four pilots were off the board: two NFFD and two on comp-time; on March 13 there was one violation with a rest period just under 12 hours. Two pilots were off the board on comp-time; on March 19 there were two violations with the shortest rest period being 9 hours 20 minutes. There were 4 pilots off the board: two NFFD and two on comp-time.

Commissioner Rosequist requested a summary of MRP violations over the last 18 months. Captain McIsaac will forward the requested summary to all Commissioners.

6. Through February 2004: Compared to 3 year daily average

Bar Crossings	-2.6%
Bay Moves	-8.0%
River Moves	-5.3%
Total Moves	-3.8%
Gross Tons	+5.9%

Unfinished Business

1. Open Incidents—Executive Director Moloney

- a. S/S MAUI, grounding, entrance to Oakland Estuary, January 28, 2003 SFBP Captain J. Weiss; update information on hearing date (continued from March 15) – Executive Director Moloney referred to Board Counsel who reported that the hearing has been rescheduled to September 20 – 23, 2004 starting at 8:00 a.m.

2. Pilot Ladder reportable incidents—Executive Director Moloney

VESSEL	PILOT	DATE	DISCREPANCY
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<u>M/V MAERSK TRIESTE</u>	Chapman		Pilot hoist was disassembled - used gangway too far aft and short ladder for disembarking
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Executive Director reported that report was forwarded to USCG and to the vessel's owner/agent.

3. Rules and Regulations Committee—Commissioner Welch – no report

4. Finance Committee—Commissioner Winn – no report

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; report on March 11 and 25, 2004 meeting; possible recommendation for amending Section 213; **possible Board action re same**

Commissioner Bayer reported that the Committee met March 11 and 25. The Committee has completed its review of the Board's current Pilot Trainee Selection Procedures, lessons learned from the 2002 selection and the results of a recent Job Task Analysis performed by the Board's contractor, HZ Assessments. The Committee has concluded that, in general, the Board's current trainee selection procedures have functioned well and that the proposed changes which follow are relatively minor.

1. Minimum Eligibility Requirements – The Committee recognizes the unequalled value gained in command experience and recommends that the minimum eligibility requirements of §213(e) be amended to require a minimum of 2 years’ command for all applicants, regardless of piloting experience elsewhere. Piloting experience would continue to count toward fulfilling the recency-of-experience requirements of §213(e) to the same extent that it does currently.

2. Experience Points – The Committee believes that experience points provisions of §213(f) tended to overcompensate applicants with piloting experience beyond that warranted. A structured review of the specific knowledge and skill factors required of a successful applicant and the different types of shiphandling experience in which they can be acquired resulted in a recommendation to change the maximum experience points for tug, deep draft and piloting experience from 25-30-45 respectively to 30-30-40 respectively.
 - (a) The breakdown for “Tug Experience” in §213(f)(1) should include an additional category of “over 5 years command” for 5 points, with a maximum of 30 points for all categories of tug experience.
 - (b) The breakdown for Piloting Experience in §213(f)(3) should be amended to ensure that a credit for a full year requires a minimum of 360 days’ service performing piloting duties (comparable to the Coast Guard’s approach for evaluating service for unlimited deck licenses), rather than the current “100 moves.” The points for the category of “over 5 years” should be reduced from 15 to 10 points (and thus bringing the maximum credit for all categories of piloting experience to 40 points) to be more in line with the relative added value of the additional experience.

3. Written Exam – The subsection providing for a written examination (§213(g)) should include an express provision specifying that the Board, in association with the Office of Examination Resources of the Department of Consumer Affairs (OER), will establish a passing score on that examination, and that an applicant must achieve a passing score on the written examination to be eligible to take the simulator exercise. The precise language for OER’s role in the selection process, including in connection with the simulator exercise, should be reviewed with OER to reflect OER’s current policy and staffing.

4. Simulator Exercise – The provisions for the simulator exercise (§213(h)(2)) should be amended to allow for the use of back-up evaluators to protect against evaluator fatigue. The exercise should be lengthened to add more opportunities to evaluate the applicant’s skill level, although no regulatory changes are needed to accomplish this.

5. Weighting – The Committee carefully considered various arguments to alter the weight given to each of the three elements – experience points, written exam and simulator exercise – and ultimately concluded that the current provision in §213(i) should remain unchanged. While the Committee believes that there is considerable value in ensuring that trainees with varying tug and deep draft experience be included in the program, it believes that the above recommendations will go far towards accomplishing that goal while maintaining the value that each element brings.
6. Appeals – The Selection Appeal Guidelines proposed by the Appeal Committee in April 2002 should be incorporated in §213(l) and (m). The extent of the Appeal Committee’s authority to order corrective action or to mitigate the adverse impact on an applicant whose appeal is found to be meritorious should be addressed.

The Committee recommends in the form of a motion that the Board initiate the normal rulemaking process to amend Section 213 in accordance with the above recommendations with the exception of Item 6, Appeals, in time to ensure its completion before commencing the next trainee selection process. The motion was seconded.

Commissioner Lundeborg asked for discussion. After discussion the motion was clarified with regard to Item 6 of the recommendations, that, in the course of the rulemaking process, the Rules and Regulations Committee would consult with the Trainee Selection Appeal Committee to develop appropriate language for the Appeal Committee’s authority to order corrective action as well as to incorporate the Selection Appeal Guidelines in order to avoid a second rulemaking process or unnecessary delay in implementing these recommendations. The motion was then unanimously approved. The Rules and Regulations Committee will begin the rulemaking process.

7. Pilot Evaluation Committee--Capt. Melvin—Report on trainees’ progress in training program; report on March 17, 2004 Committee meeting; possible recommendation for amending Section 218(c)(1) - Continuing Professional Development Program; **possible Board action re same**

SFBP Captain Ed Melvin, Chair of the PEC gave the following report: The Pilot Evaluation Committee has considered changes in the training program and in the vessels that routinely call on the Bay Area in the 10 years since §218(c)(1) was adopted and recommends the following changes:

§218(c)(1)(A) - for pilots licensed 12 months or less:

- (1) Increase the minimum size of dry cargo vessels that require the assignment of a supervisory pilot from 850 feet to 900 feet, unless the vessel is outbound and will not require turning for the outbound trip (in which case no supervisory pilot should ordinarily be required);

(2) Add “Redwood City” to the list of ports in §218(c)(1)(A)5, and delete §218(c)(1)(A)6, thereby requiring the assignment of a supervisory pilot only for vessels over 600 feet bound for Redwood City.

§218(c)(1)(B) - for pilots licensed 18 months or less:

(1) Increase the minimum size of dry cargo vessels that require the assignment of a supervisory pilot from 900 feet to 950 feet, unless the vessel is outbound and will not require turning for the outbound trip;

(2) Add “Redwood City” to the list of ports in §218(c)(1)(B)5.

§218(c)(1)(C) - for pilots licensed 24 months or less:

(1) Add “Redwood City” to the list of ports in §218(c)(1)(C)4.

Other than correcting a spelling error in the official version of §218(c) (Port Agent vs. Port Agency), the PEC has no further recommendations for changes to the Continuing Professional Development Program in §218(c)(1).

It was moved and seconded to accept the PEC recommendations. Commissioner Lundeberg asked for discussion. The Board discussed the circumstances that led to these recommendations, including the fact that the trainees are training on the larger vessels and, upon being licensed, are limited to smaller vessels because of the outdated regulation. It was noted that over 50% of the vessels transiting the Oakland Outer and Inner Harbor are over 900’ compared to less than 10% in 1994. Also the geography has changed as the turning basin has been enlarged. There being no further discussion the motion passed unanimously. The Rules and Regulations Committee will begin the rulemaking process.

8. Vessel Interactions—Review incident frequency, Board’s role in addressing the problem—Commissioner Falaschi. Executive Director Moloney noted that under new business there was an interaction. On March 20, 2004 M/V MEHMET AKSOY was going upriver to Stockton. SFBP Captain Mike Sweeney was piloting. On final approach, the vessel passed a marina where several boats were docked Mediterranean moored (stern to dock with anchor out) because of an unusually large number of boats in the marina. The vessel was drawing 28’ and was on a slow bell or dead slow throughout the transit. The water displacement caused several boats to be pushed against the dock, resulting in reportedly minor damage to several swim platforms.

The IRC determined this to be a non-incident. The speed of the vessel was the slowest speed it could safely maneuver and did not contribute to the interaction. The draft of 28' would necessarily cause substantial water displacement as the vessel passed the marina. Captain Sweeney was piloting correctly and had no other reasonable options. Tony Davis, Chief Investigator, MSO, who was in the audience, stated that his office had also investigated the matter and concurred with the IRC's findings. Various discussions continued regarding suggestions for the Harbor Master at the marina to advise boaters to call VTS for vessel movement schedules and that Mediterranean moor docking in that location may not provide a safe mooring when deep draft vessels pass.

9. Pilot Security—Commissioner Lundeberg noted that there was no report.
10. Ad hoc Committee for Pilot Fitness – Commissioner Falaschi to announce assignment of Committee members -- Commissioner Lundeberg noted that there was no report.

New Business

1. S/S KENAI, allision with dock, Amorco, March 11, 2004 - Executive Director reported that this incident is being investigated
2. M/V MEHMET AKSOY March 20, 2004 - reported on under Vessel Interactions Item 8. under unfinished business, above - Non-incident
3. Public Comment on matters not on the agenda -- there is an MTS meeting scheduled at the Port of San Francisco today. A representative from Senator Diane Feinstein's office is addressing and receiving comments on local marine transportation systems issues.
4. Proposals for additions to next month's agenda -- there were none

Schedule next regular meeting -- the next meeting is scheduled for April 22, 2004 at 9:30 a.m.

Adjournment -- the meeting was adjourned at 10:25 a.m.

Respectfully submitted,

Alice A. Evans
Secretary