

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

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FINANCE COMMITTEE

January 20, 2011

MINUTES

10:00 A.M.

The Board of Pilot Commissioners Finance Committee met on January 20, 2011, at 10:00 a.m. at the Board of Pilot Commissioners office, Pier 9, Suite 102, San Francisco, California. In attendance were Committee members Commissioner Osen, Commissioner Wainwright, Pacific Merchant Shipping Association (PMSA) Vice President Michael Jacob and San Francisco Bar Pilot's (SFBP) Business Director John Cinderey. Members of the public present were CHP Assistant Chief Terri Anderson, Board of Pilot Commissioners (BOPC) President Knute Mike Miller, Executive Director Allen Garfinkle, and Staff Services Analyst Brian Vu.

Open Meeting:

1. Call to Order and Roll Call.

Commissioner Osen called the meeting to order at 10:08 a.m. All members were present.

2. Approval of minutes from the November 30, 2010 meeting.

Commissioner Osen requested approval of the minutes of the November 30, 2010 Committee meeting. PMSA Vice President Jacob moved for approval with authority for Board staff to make clerical changes, correcting a spelling error to Sailors Union of the Pacific Connolly's last name and changing "pilot training surcharge" to "continuing education surcharge" on Page 2. Commissioner Wainwright seconded the motion which passed unanimously on a voice vote.

3. Review the monthly financial receipts on all surcharge collections from the San Francisco Bar Pilots (SFBP). Review the SFBP Summary Cash Report prepared by SFBP staff to be transmitted to Board staff when surcharges are remitted to the Board. Review the worksheet to be used by Board staff to compare actual cash collections with the check remitting those moneys.

The Summary Cash report from SFBP for the month of December 2010 showed that the SFBP received \$4,228,493.85 in receipts for the month of December, indicating a slight increase trend in revenue collections. Total Gross Pilotage totaled \$2,765,874.83. Nav Tech surcharges totaled \$840.00. Pilot Boat Surcharges totaled \$310,189.37. Pilot Commission charge totaled 201,018.09. Pilot Training Surcharges totaled \$29,340.00.

4. Review BOPC fund condition, revenue and expenditure projections and monthly data for all pilotage fees and vessel moves and their effect on:

a) Board Operations Surcharge (currently 6.6%) – develop possible recommendation to Board to adjust rates if warranted.

Executive Director Garfinkle reported that the Department of Finance did not approve the previously recommended rate change of Board Operations Surcharge from 6.6% to 3%.

PMSA Vice-President Mike Jacob stated his belief that there was a statute that prohibited the Board from holding this much cash in reserve (currently two years of operating expense in reserve.) He offered to draft a correspondence to the legislature or assemble a coalition to speak to Department of Finance.

Board President Mike Miller stated that with the state budget in a deficit condition, the general fund might have to borrow from the special funds and could possibly take from the Board's reserve. He agreed with PMSA Vice President Jacob's suggestion and felt that a coalition of PMSA, the SFBP and BOPC would be most effective in advancing the position of reducing the Operations Surcharge.

Commissioner Wainwright moved that the committee recommend to reduce the Board Operations surcharge from 6.6% to 3%. PMSA Vice President Jacob seconded the motion.

b) Pilot Training Surcharge (currently \$45/move) – develop possible recommendation to Board to adjust rates if warranted.

Executive Director Garfinkle reported that Department of Finance was not required to approve the previously recommended rate change of Pilot Continuing Education surcharge from \$45/move to \$105/move and it was implemented on January 1, 2011.

Commissioner Osen inquired as to if trainees were going to Port Revel for training before they were made pilots. If so, he felt it a misappropriation of funds.

Board President Mike Miller stated that any trainees sent to Port Revel were only done when there was a vacancy. The contract with Port Revel calls for a set number of pilots in each class and if there was a vacancy for whatever reason, a senior trainee who was almost ready to graduate from the training program was sent. As a result, no money is being wasted for an empty slot.

PMSA Vice-President M. Jacob stated that if this were indeed true, there may be some tax liability incurred by the trainee. He also noted that if the Board is using this fund for these purposes, to make sure to reimburse it from the trainee training.

Commissioner Wainwright recommended that this issue be on next meeting's agenda.

- c) **Trainee Training Surcharge (currently \$9/trainee/move) – develop possible recommendation to Board to adjust rates if warranted.**

Executive Director Garfinkle reported that DGS was not required to approve the rate change of Trainee Training from \$9/trainee/move to \$11/trainee//move and it was implemented on January 1, 2011.

5. Review current Pilot Vessel Surcharge (currently at 10.97 mils), revenue, expenditures and reserve balance. Develop possible recommendation to the Board for Pilot Vessel Surcharge rate adjustment if warranted.

Executive Director Garfinkle reported that this is pending with the Board. However, a change of effective date to February 1, 2011 could be done with Board approval.

PMSA Vice-President Jacob expressed his desire to wait until April 1, 2011 as to have an uniform letter. He made a motion to recommend reduction of the Pilot Vessel Surcharge to .000945 effective April 1, 2011. SFBP Business Director John Cinderey seconded the motion which passed unanimously on a voice vote.

6. Review of staff analysis of items proposed to be included in a forthcoming Spring Finance Letter. Possible recommendation to the Board of items to be included in the Finance letter.

Executive Director Garfinkle reported that the Board would not submit a Spring Finance Letter. In a teleconference with Board President Knute Mike Miller and CHP Assistant Chief Terri Anderson, it was learned that the Department of Finance would only approve items if they were critical to the Board's mission. Therefore it was determined that most of the items on our Spring Finance Letter list were either more appropriate to the fall Budget Change Proposal or premature at this juncture.

7. Consideration of appropriate use of Board Operations Surcharge Funds – specifically – the use of these funds to pay for legal fees in defense of the Board where negligence or other wrongdoing is alleged.

Commissioner Osen reported that he made a formal request to put this item on the Board agenda, however, was told that it was more appropriate to come through this committee first. He expressed his opinion that Board Operations Surcharge funds should not be used to pay for legal defense in defense of the Board where negligence or other wrongdoing is alleged.

Board President Mike Miller stated that in the aftermath of Cosco Busan, the legislature appropriated \$600,000 dollars towards Cosco Busan legal defense. Implied in that authority is that it is appropriate for the Board to defend itself with that money.

Commissioner Osen responded that the state should pay from the General Fund and not through Board surcharges.

PMSA Vice-President Mike Jacob raised the question of what is an incidental expense? In addition, he felt that if there was a settlement between the Board and another party, the customers should not pay as there is no benefit conferred upon them.

8. Public comments on matters not on the agenda.

Board President Mike Miller reported that he along with Executive Director Garfinkle, SFBP Controller Julie Yasuda met with Shea Lebaugh and were informed that they could offer the Board an audit report, more than what the Board initially contracted for.

Commissioner Osen inquired as to the scope of their work and how detailed the process would be. Board President Miller responded that the audit would be done in accordance with generally accepted auditing standards. As to the scope, Shea Lebaugh would be taking a random sample size.

9. Proposals for additions to next months' agenda.

PMSA Vice-President Mike Jacob requested the state budget update for BOPC along with sub-accounts.

10. Adjournment.

A motion was made and seconded to adjourn. The motion passed unanimously and meeting was adjourned at 12:05 p.m.

Respectfully submitted,



Brian Vu
Staff Services Analyst