

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

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The Board of Pilot Commissioners Finance Committee met on May 23, 2011, at 3:00 p.m. at the Board of Pilot Commissioners office, 660 Davis Street, San Francisco, California. In attendance were Committee members Commissioner Cronin, 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 Acting Port agent Capt. Pete McIsaac, Board President Knute Michael Miller, Executive Director Allen Garfinkle, Staff Services Analyst Brian Vu, and Office Technician Kelly Dolcini.

Open Session:**1. Call to Order and Roll Call.**

Commissioner Cronin called the meeting to order at 3:08 p.m. All members were present.

2. Approval of minutes from the January 20, 2011 meeting.

Commissioner Cronin requested approval of the minutes of the January 20, 2011 meeting. Commissioner Wainwright made a motion to accept. John Cinderey 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 funds.

The Summary Cash report for the month of April showed that the SFBP received \$3,596,592.83 in receipts for the month of April. Total Gross Pilotage totaled \$2,229,111.95; Pilot Boat Surcharges totaled \$243,803.27; Pilot Commission charge totaled 169,445.81; Continuing Education Surcharges totaled \$62,355.00; and Trainee Training totaled 39,276.00.

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 (DOF) has not approved the previously recommended rate change of the Board Operations Surcharge from 6.6% to 3.0%. It appears that the Department of Finance does not want to act prematurely with the COSCO BUSAN litigation still not finalized.

PMSA Vice-President Jacob reiterated that the surplus in the fund is too high.

Commissioner Wainwright made a motion to adjust the Board Operations Surcharge from 6.6% to 1%. PMSA Vice-President Jacob seconded the motion.

After discussion, Commission Wainwright amended his motion and revised it from 6.6% to 2.4% effective July 1, 2011. PMSA Vice-President Jacob seconded the amended motion.

The Committee directed Board staff to put this item on the June Board meeting agenda where the Finance Committee would make its formal recommendation and ask the Board to act.

The Committee also discussed asking Deputy Attorney General Judith Loach, who was involved with the COSCO BUSAN litigation, if she could write a letter to DOF.

- b) Pilot Training Surcharge (currently \$105/move) – develop possible recommendation to Board to adjust rates if warranted.**

Executive Director Garfinkle reported that the Board was still in a deficit condition; however, since the change was implemented in February 2011 to the present, there has been a healthy increase in revenue and it appears there will be adequate funds to cover our commitments without using Board Operations funds.

- c) Trainee Training Surcharge (currently \$11/trainee/move) – develop possible recommendation to Board to adjust rates if warranted.**

There was no discussion on this agenda item due to the California Highway Patrol report only being updated through February.

5. Review current Pilot Vessel Surcharge (currently at .00945 mils), revenue, expenditures and reserve balance. Develop possible recommendation to the Board for Pilot Vessel Surcharge rate adjustment if warranted.

SFBP Business Director Cinderey reported that the amount paid to CAT finance is 121,461.75 per month with \$485,847.00 outstanding. On the First Republic Bank loan,

\$92,009.84 per month is paid for the PV DRAKE with \$368,039.36 outstanding. SFBP Business Director Cinderey recommended that, as there is surplus in the fund, \$350,000 be paid to the P/V DRAKE loan, as there is no prepayment penalty for an amount under a million dollars in a given year. He also stated that any prepaying to CAT Finance would incur a penalty.

President Miller stated that SFBP did not need to approach the Committee on matters outside of surcharges.

6. Review of Shea Labagh Dobberstein audits of 2008 Pilot Pension Plan surcharges, and audit of all 2009 and 2010 surcharges, billings, and disbursements by the San Francisco Bar Pilots (SFBP) and San Francisco Bar Pilots Benevolent and Protective Association. Possible recommendation to the Board to accept reports as submitted.

President Miller recounted the history that led to the surcharge audits and reports that were before the Board. In 2008, the Board's Pension Plan fiduciary contracted with Shea Labaugh to perform a limited review of the receipts and disbursements of the San Francisco Pilot Pension Plan for the year ended December 31, 2007. The firm did so and produced a report that was accepted by the Board.

The Board intended in 2009 that the firm perform a similar review of the receipts and disbursements for the year ended December 31, 2008. However, the demands on staff and Board member time, particularly that of the Board President, occasioned by the Bureau of State Audits (BSA) performance audit of the Board during 2009, resulted in delay in contracting for the 2008 review – a shortfall for which the BSA criticized the Board. President Miller noted that he had devoted over 200 hours of his personal time to assisting the BSA audit team in carrying out their responsibilities, substituting their priority for his. The BSA recommended that the Board “. . . establish a requirement for an independent audit of the pilot boat and pilot pension surcharges and ensure that such audits are conducted each year” as this was money that the Board did not see. It was money that SFBP handled and paid out to its pensioners.

The Board determined that there was no sound reason to limit a surcharge audit to the pilot vessel surcharge and to the pension plan surcharge, and accordingly, directed staff to develop a scope of work and to initiate a contracting “invitation for bid” (IFB) process to secure a surcharge audit of all surcharges for 2009 and 2010. The IFB called for the contractor (but by the terms of the IFB, a certified public accounting firm licensed by the California State Board of Accountancy) to perform agreed upon procedures to be developed in discussion with the Board after selection of the successful bidder and execution of the contract.

President Miller explained that “agreed upon procedures” as understood in the public accounting, or “audit,” profession was something short of a full audit which would encompass all the procedures contemplated in an “agreed upon procedures” engagement, but which would not result in the issuance of an independent auditor's report expressing an opinion on the financial statements that result from a full audit. An “agreed upon procedures” engagement and report would identify the auditor's findings which would include any exceptions encountered in the process of carrying out the procedures.

At the conclusion of the IFB contracting process, administered by the California Highway Patrol, Shea Labaugh was the lowest bidder (of four bidders) and won the contract. President Miller and Executive Director Garfinkle, during preliminary discussions with the firm prior to commencement of its audit field work, learned of the firm's willingness to go beyond an "agreed upon procedures" engagement and perform an audit consistent with generally accepted auditing standards which would allow the firm to provide an auditor's report and to express an opinion on the surcharges, billings and disbursements of the SFBP and the SFBP Benevolent and Protective Association for the years in question.

President Miller then discussed the 2008, 2009, and 2010 auditor's reports, explaining the structure of the schedules included as part of the reports, and the notes thereto. President Miller emphasized that the amount pensioners received would fluctuate from year to year, either upward or downward and that was attributed to variables such as yearly vessel traffic, gross tonnage, etc.

PMSA Vice-President Mike Jacob moved that the Committee recommend that the Board accept the audits for years 2008, 2009, and 2010. Commissioner Wainwright seconded the motion which passed unanimously on a voice vote.

Acting Port Agent McIsaac stated that while this was additional work on SFBP's staff, it is critical in terms of oversight.

The Committee will recommend the Board accept the Independent Auditors' Reports on the surcharge audits for the years ended December 31, 2008, 2009 and 2010 at the next Board meeting.

7. Review of Pilot Evaluation Committee proposal to require fees for application and exam for the pilot training program applicant list. Possible recommendation to Board to have Rules and Regulations commence the regulation process to institute these changes.

The Committee discussed acceptable application fees that would act to deter qualified applicants.

The Pilot Evaluation Committee's (PEC) proposal included a \$500.00 application fee plus a \$500.00 test fee. The reasoning was to encourage applicants to submit complete and adequate applications or to prevent taking practice tests for exams given in other jurisdictions at BOPC's expense.

The Committee agreed that this agenda item be deferred to allow more time to gather pertinent data.

President Miller suggested that staff investigate other pilot organizations and see what other Boards charge. In addition, staff should interface with Business, Transportation and Housing (BT&H) Deputy Counsel Morocz and Board Counsel to determine what legal impediments, if any, exist.

8. Discussion of propriety of sending Board trainees nearing completion of the training program to training that requires tuition and travel expenditure. Possible recommendation to the Board on Committee decision on this issue.

The Committee recommended that the PEC should be the body that makes these decisions.

PMSA Vice-President Mike Jacob said he did not have an issue with sending trainees that are nearing completion; however staff would have to differentiate in terms of internal accounting. He stressed that trainees attending this training would do so under a scholarship and as a result, recommended that the PEC develop policy that incorporates language noting this.

9. Public comments on matters not on the agenda.

There were none.

10. Proposals for additions to next months' agenda.

The next Committee meeting will be June 15th at 10:00 a.m.

11. Adjournment.

A motion was made and seconded to adjourn. The motion passed unanimously and meeting was adjourned at 5:52 p.m.

Respectfully submitted,



Brian Vu
Staff Services Analyst