

AGENDA

BOARD OF PILOT COMMISSIONERS for HARRIS COUNTY PORTS

**October 22, 2013
9:30 a.m.**

**Fourth Floor Boardroom
111 East Loop North
Houston, TX 77029**

A. CALL TO ORDER

(Recess Open Meeting and convene Executive Session)

B. EXECUTIVE SESSION

1. Consultation with Attorneys (Section 551.071, Texas Open Meetings Act), including consultation regarding procedures under Section 9, regarding Pilotage Charges, of the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel between the Galveston Bar and Turning Basin
2. Real Estate (Section 551.072, Texas Open Meeting Act)
3. Economic Development Negotiations or Incentives (Section 551.087, Texas Open Meetings Act)
4. Employment and Evaluation of Public Employees (Section 551.074, Texas Open Meetings Act), including deliberations regarding public employees
5. Security-Related Matters (Sections 418.175-418.183 of the Texas Government Code, and Section 551.076, Texas Open Meetings Act)

(Announce any items from Executive Session requiring Board of Pilot Commissioners action)

C. APPROVAL OF MINUTES

September 24, 2013 Public Meeting

D. APPEARANCES

E. STAFF REPORTS

F. PILOT MATTERS

1. Commence a hearing to consider the Houston Pilots' application to the Pilot Board for a change in pilotage rates effective January 1, 2014
2. Recommendation for renewal of Branch Pilot commission in and for the Houston Ship Channel and Galveston Bar: Captain Kenneth Jones
3. Recommendation for Branch Pilot Commission in and for the Houston Ship Channel and Galveston Bar: Captain Michael K. Lawson II

G. ADJOURN

NEXT MEETING REQUESTED

November 18, 2013

Request for Board of Pilot Commissioners Action

| | | |
|---|---|---------------------------------|
| Category: General | Agenda Date: October 22, 2013 | Agenda Section: F - 1 |
| Division: Legal Department: Pilot Administration | Staff Contact: Erik Eriksson | |
| Summary Recommendation: Commence a hearing to consider the Houston Pilots' application to the Pilot Board for a change in pilotage rates effective January 1, 2014. | | |
| Background: <p>The Houston Pilots Licensing and Regulatory Act, Chapter 66 of the Texas Transportation Code (the "Act"), requires the Board of Pilot Commissioners for the Ports of Harris County (the "Pilot Board") to establish pilotage rates for the Ports of Harris County, as provided therein.</p> <p>By letter dated September 16, 2013, the Houston Pilots (the "Pilots") submitted an application to the Pilot Board for a change in such pilotage rates (the "Application").</p> <p>The Pilots have proposed (i) overall pilotage rate increases of three and one-half percent (3.5%), to be effective January 1, 2014, (ii) extending the "Pilot Away" grace period by 5 minutes to 35 minutes from first line "on a revenue neutral basis," (iii) adjusting cancellation charges to exclude "automatics," (iv) adding \$7 to the transportation charge to retroactively recover pilot boat increased fuel costs pursuant to the fuel factor formula, and (v) extending promotional discounts at Bayport Terminal for large cruise ships and container ships, all as set forth in the Application.</p> <p>On September 24, 2013, the Pilot Board set a date to commence a hearing on such Application, i.e. the regularly scheduled Pilot Board meeting of October 22, 2013.</p> <p>Staff understands that prior to the date of the hearing the Pilots gave notice of the hearing as required by Section 66.062 of the Act, and submitted to the Pilot Board information as required by Section 66.063 of the Act.</p> | | |
| Staff Evaluation/Justification: <p>Section 9 of the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel between the Galveston Bar and Turning Basin adopted by the Pilot Board in July 2013 set forth the Pilot Board's procedures for the establishment of pilotage rates.</p> <p>In accordance with those procedures, staff anticipates that the Pilot Board's consideration of the Pilot's application will commence upon October 22, 2013, and such hearing will be continued to permit participation by interested parties in connection with Pilot Board action on the Application. The proposed schedule and certain additional rules for such procedures are attached.</p> | | |

Full Recommendation:

The Pilot Board of Commissioners, at its October 22, 2013 meeting, commence a hearing to consider the Houston Pilots' application to the Pilot Board for a change in pilotage rates effective January 1, 2014, and further authorize the Secretary of the Pilot Board to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Fall 2013 Houston Pilot Rate Application Hearing
 Timeline
(see references on following page)

| <i>Action</i> | <i>Date</i> |
|---|--------------------|
| Pilots submitted application for change in pilotage rates | September 16, 2013 |
| Pilot Board established October 22, 2013 hearing date | September 24, 2013 |
| Start date for pilots to provide notice of hearing date to interested parties | September 25, 2013 |
| Deadline for submission of Pilot financial report ¹ | October 11, 2013 |
| Posting of notice of October 22, 2013 Pilot Hearing ² | October 11, 2013 |
| Pilot Rate Hearing opens | October 22, 2013 |
| Deadline for written submission by interested parties ³ | November 1, 2013 |
| Continued Hearing: oral presentations ⁴ | November 18, 2013 |
| Deadline for rebuttal submissions ⁵ | December 2, 2013 |
| Hearing is deemed complete eight (8) days after rebuttal submissions ⁶ and rate decision to be issued, including effective date ⁷ | December 10, 2013 |
| Within fourteen (14) days, an aggrieved party may request reconsideration of the decision ⁸ | December 24, 2013 |
| Within thirty (30) days of a reconsideration request, the Chairman of the Pilot Board shall set the timetable for disposition of the request ⁹ | January 23, 2014 |

Fall 2013 Houston Pilot Rate Application
Additional Procedural Rules

1. Written materials submitted to the Secretary shall be provided to members of the Pilot Board no later than five (5) days after receipt.
2. The Pilot Board shall give at least ten (10) days' notice before it may adopt a change in pilot rates (Texas Transportation Code Sec. 66.020).
3. Written materials submitted by interested parties shall not exceed twenty (20) pages in length, and shall be limited to addressing the factors set forth in Texas Transportation Code Sec. 66.064.
4. No oral presentation by an interested party shall exceed five (5) minutes in length, unless otherwise permitted by the Chairman of the Pilot Board. Oral presentations shall be limited to addressing the factors set forth in Texas Transportation Code Sec. 66.064.
5. Rebuttals submitted by interested parties shall not exceed ten (10) pages in length, and shall be limited to addressing issues raised by the previous written submissions and oral presentations.
6. This time period, as set forth in Section 9(H) of the "Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel between the Galveston Bar and Turning Basin," as adopted by the Pilot Board in July 2013 (the "Rules"), has been adjusted by the Chairman of the Pilot Board pursuant to the authority set forth in Section 9(D) of the Rules.
7. Not later than ten (10) days after the hearing is complete, the Pilot Board shall issue its written decision (Texas Transportation Code Sec. 66.065). A rate decision shall state the date on which any change becomes effective (Section 9(J) of the Rules).
8. A party aggrieved by a Pilot Board decision and desiring to appeal to a court shall submit a request for reconsideration on or before the fourteenth (14th) day after the rate decision announcement (Section 9(K) of the Rules).
9. Section 9(K)(1) of the Rules.