

## INDEX

### THE BOARD OF PILOT COMMISSIONERS OF THE PORTS OF HARRIS COUNTY, TEXAS

December 10, 2013

<i>Minute No.</i>	<i>Event/Action</i>
	<b>General</b>
	Chairman Longoria convened the meeting of the Board of Pilot Commissioners
	<b>Minutes</b>
(PB-2013-1210-01)	Approve the Minutes of the Board of Pilot Commissioners Meeting – November 19, 2013
	<b>Appearances</b>
(PB-2013-1210-02)	Chairman Longoria asked if anyone would like to address the Pilot Board; there was no response
	<b>Pilot Matters</b>
(PB-2013-1210-03)	Continued hearing to consider the Houston Pilots' application for a change in pilotage rates effective January 1, 2014 and directed counsel to prepare for its consideration a written decision setting forth its approval of a 3.5 % pilotage rate increase on the condition that the pilots and interested parties meet a March 3 deadline to agree on pilot tariff and guideline reforms
(PB-2013-1210-04)	Approve the Pilot Board Investigation and Recommendation Committee's recommendation to grant Houston Pilot Captain Donald C. King an extension, from November 30, 2013 to March 1, 2014, to complete a practical Raven unit training course at a simulation facility and other related requirements
(PB-2013-1210-05)	Chairman Longoria asked if there were any items to consider in closed session; staff responded there were none
	Adjourn the meeting of the Board of Pilot Commissioners

**Board of Pilot Commissioners for Harris County Ports  
Public Meeting**

**Houston, Texas  
December 10, 2013**

A public meeting of the Board of Pilot Commissioners for Harris County Ports (the "Pilot Board") was convened on December 10, 2013 at 11:13 a.m., at the Port of Houston Authority Executive Offices, Fourth Floor Boardroom, at 111 East Loop North, Houston, Texas 77029. The following Commissioners, staff, and counsel were present:

Janiece Longoria, Chairman  
Theldon R. Branch, III, Commissioner  
Dean E. Corgey, Commissioner  
Stephen DonCarlos, Commissioner  
Clyde E. Fitzgerald, Commissioner  
John D. Kennedy, Commissioner  
Roy D. Mease, Commissioner  
Leonard Waterworth, Secretary  
Erik A. Eriksson, General Counsel and Assistant Secretary  
David H. Brown, Brown & Kornegay, LLP

Chairman Longoria called the meeting of the Pilot Board to order.

(PB-2013-1210-01) Chairman Longoria asked for a motion to approve the minutes of the Pilot Board's November 19, 2013 meeting. The motion was brought by Commissioner Kennedy, seconded by Commissioner Mease. Chairman Longoria, and Commissioners Branch, Corgey, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. The minutes were approved as written.

(PB-2013-1210-02) Chairman Longoria asked if anyone would like to address the Pilot Board; there was no response.

The Pilot Board then considered each Request for Pilot Board Action ("RPBA"), submitted by Chairman Longoria, and attached to these minutes as Exhibit "A."

Chairman Longoria reopened the continued hearing to consider the application of the Houston Pilots ("Pilots") for a change in pilotage rates effective January 1, 2014.

Chairman Longoria stated her appreciation for the submissions provided to the Pilot Board. She noted the decision would not be an easy one and her preference would have been for industry and the Pilots to have agreed on a resolution.

Chairman Longoria went on to remark that the Pilot Board had enjoyed working with Captain Robert Thompson, the pilot's Presiding Officer, the Pilots have worked very hard and have an incredible safety record, but at the same time industry and shippers are the life blood of the port's work.

Chairman Longoria proposed a suggestion (noting there have not been any discussions away from the table), that the requested increase be approved, and that the Pilot Board's counsel prepare written findings that support the increase, but with the provision that the Pilots and shippers are able to negotiate an appropriate tariff provision. She added that tariff reform was expected, and secondly that guidelines would be reviewed and revised to ensure safety was paramount; but, if only one pilot was required for safe maneuvering of a vessel, only one pilot would be charged for, as opposed to one and half pilots.

Chairman Longoria reiterated that the proposal was for provisional approval of the increase, and that counsel would be instructed to write the findings and the order that would be presented at the continued hearing on January 28, 2014. At which point, the order would be approved, with the requirement that between today and March 3, 2014, the Pilots and the shippers would get together and come up with an agreement on tariff reform and guideline revision.

Chairman Longoria then opened up the hearing for discussion and asked for comments from other members of the Pilot Board, stating she was looking for innovative ideas and ways of approaching the matter.

Commissioner Mease asked for clarification that the Pilots and shippers are to get together and work things out and bring it to the Pilot Board on March 3, 2014.

Chairman Longoria stated that it could be brought to the Board anytime between today and March 3, 2014, but that in the interim a provisional order approving the 3.5% increase would be prepared with the supporting information and findings.

Commissioner DonCarlos echoed disappointment that this was not worked out between the parties involved, noting that concerns of both the Pilots and industry were valid. He stated the desire of the Pilot Board to do what was fair, and his support of the proposal that the parties involved take this opportunity to sit down and work out a long-term solution.

Commissioner Kennedy noted that the Pilots do an excellent job and stated his support of Chairman Longoria's comments and proposal for an agreement to be reached to revise the tariff and some of the processes and procedures.

Commissioner Branch stated that provisional approval of the requested increase would put industry at a disadvantage, and it was remiss of the Pilot Board to accept unaudited financials from the Pilots, so he would not be in favor of a provisional approval.

Chairman Longoria stated that provisional approval was in support of industry because the Pilot Board is saying the rate increase would only be granted if industry and the Pilots work together and come to an agreement on the concerns raised about the tariff and the guidelines, regarding the number of Pilots necessary for safe operation of a vessel. Chairman Longoria added that if the Pilot Board was going to ask for audited financials, it should have asked earlier to allow the Pilots time to get that done, but for future applications and deliberations, audited financials will be requested in a timely manner.

Commissioner Fitzgerald stated he is also disappointed that the two groups were not able sit down and work these matters out without bringing it to the Pilot Board. He stated his appreciation of the work done by the Pilots, but that he too supports provisional approval which gives both groups a chance to address the tariff and other regulations.

Commissioner Mease asked if someone was appointed to help the groups resolve the issues. Chairman Longoria explained that Tom Kornegay had been hired by the Pilot Board and she asked that he continue to assist as the provisional order takes its course; Mr. Kornegay agreed to do so.

Commissioner Kennedy stated that to make a decision now would not satisfy either side but expressed his hope that Chairman Longoria's proposal would bring the sides together to work out an agreement acceptable to both sides and all the stakeholders in the port.

Commissioner Mease again noted his support of taking this path forward.

Chairman Longoria put her suggested path forward in the form of a motion, seconded by Commissioner Mease.

Chairman Longoria asked Mr. Eriksson and Mr. Brown if they were clear about what she stated, that it would be in the form of a motion; they each responded yes. She stated the hearing would be continued until January 28, 2014, so the Pilot Board could see the form of the order as described at the table today.

She also reiterated the Pilot Board's enjoyment with working with Captain Thompson, and strongly encouraged him and his group to work with industry in the interim, noting March 3, 2014 was the deadline to get things worked out to everyone's satisfaction, and the provisional order would be on the January 28, 2014 agenda for approval.

Chairman Longoria asked if there was any further discussion. Commissioner Branch asked whether, given the March 3, 2014 deadline, there was enough time to have the pilot's financials audited. Captain Thompson stated the Pilots did not mind doing an

audit, but with the auditor's end of the year schedule he was not sure it could be provided in time. Mr. Kornegay said the 2012 financials could be audited, but that the numbers were not yet in for 2013. Chairman Longoria said it would be for 2012.

Chairman Longoria noted there had been a motion and second so she would call the question unless anyone had any further discussion. Commissioner Kennedy asked whether, if there was an agreement in March, would the rate increase be retroactive back to January 1st. Commissioner Fitzgerald stated he supported going back to the date of the application if an agreement was worked out.

(PB-2013-1210-03) Hearing no further questions or discussion, Chairman Longoria called RPBA F1 for question and asked that all in favor signify by saying Aye.

Commissioner Fitzgerald voted Aye.  
Commissioner DonCarlos voted Aye.  
Commissioner Corgey Abstained.  
Commissioner Branch voted Nay.  
Commissioner Kennedy voted Aye.  
Commissioner Mease voted Aye.

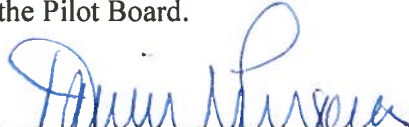
Chairman Longoria declared the item carried, and commented that if an agreement could be reached that a multi-year agreement perhaps three years, would be considered.

(PB-2013-1210-04) RPBA F2 was presented, moved by Commissioner Fitzgerald, seconded by Commissioner Kennedy. Chairman Longoria, and Commissioners Branch, Corgey, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA F2 PASSED.

(PB-2013-1210-05) Chairman Longoria asked if there was a need for the Pilot Board to meet in executive session. Mr. Eriksson responded no.

At 11:32 a.m. Chairman Longoria adjourned the meeting of the Pilot Board.

The above is a correct copy of the Minutes of the December 10, 2013 meeting of the Pilot Board.

  
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Janiece Longoria, Chairman

ATTEST:

  
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Erik A. Eriksson, General Counsel and  
Assistant Secretary

## Request for Pilot Board Action

<b>Category:</b> Pilot Matters	<b>Agenda Date:</b> December 10, 2013	<b>Agenda Section:</b> F - 1
<b>From:</b> <b>Division:</b> Legal <b>Department:</b>	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Continued hearing to consider the Houston Pilots' application to the Pilot Board for a change in pilotage rates effective January 1, 2014.		
<b>Background:</b> <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 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 the regularly scheduled Pilot Board meeting of October 22, 2013 to commence its hearing on the Application. The hearing was commenced on that date and continued to November 19, 2013, on which date interested parties spoke in connection with the Pilot Board's consideration of the Application. The hearing was subsequently continued again to December 10, 2013.</p>		
<b>Staff Evaluation/Justification:</b> <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. In addition, Texas Transportation Code Sec. 66.065. requires that:</p> <p style="padding-left: 40px;">Not later than the 10th day after the date of the completion of a hearing on an application for a change in pilotage rates, the board shall issue a written decision that:</p> <ol style="list-style-type: none"> <li>(1) grants or denies the application in whole or in part;</li> <li>(2) states the reasons for the decision; and</li> <li>(3) states each new pilotage rate.</li> </ol> <p>Accordingly, staff anticipates that on December 10, 2013 the Pilot Board will further consider the Pilot's Application, and may continue the hearing, or complete the hearing and take action on the Application as provided by the Transportation Code.</p>		





## Request for Pilot Board Action

<b>Category:</b> Pilot Matters	<b>Agenda Date:</b> December 10, 2013	<b>Agenda Section:</b> F - 2
<b>Division:</b> Legal <b>Department:</b> Pilot Administration <b>Department:</b>	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Approve the Pilot Board Investigation and Recommendation Committee's recommendation to grant Houston Pilot Captain Donald C. King an extension, from November 30, 2013 to March 1, 2014, to complete a practical Raven unit training course at a simulation facility and other related requirements.		
<b>Background:</b> The Pilot Board, at its September 24, 2013 meeting, approved proposed findings and recommendations of the Pilot Board Investigation and Recommendation Committee (PBIRC) regarding the matter of the MV HARVEST SUN collision with MT CHARLESTON, December 13, 2011, Houston Ship Channel.  Such action included the requirement that Houston Pilot Captain Donald C. King be issued a Letter of Caution in connection with the collision, and in addition, that he <ul style="list-style-type: none"> <li>• attend a practical Raven unit training course at a simulation facility, which would incorporate low visibility scenarios if possible;</li> <li>• work with the Houston Pilots Association to determine the best facility for such training;</li> <li>• complete the training by November 30, 2013;</li> <li>• notify the PBIRC upon completion of the training; and</li> <li>• share "lessons learned" with other members of the Houston Pilots Association</li> </ul>		
<b>Staff Evaluation/Justification:</b> By letter received November 22, 2013, Captain King requested that the November 30, 2013 deadline to complete these requirements be extended. This request was brought to the PBIRC for its consideration, and the PBIRC informally and provisionally granted an extension until March 1, 2014, subject to the approval of the Pilot Board, which it recommends.		
<b>Full Recommendation:</b> The Pilot Board, at its December 10, 2013 meeting, approve the Pilot Board Investigation and Recommendation Committee's recommendation to grant Houston Pilot Captain Donald C. King an extension from November 30, 2013, to March 1, 2014 to complete a practical Raven unit training course at a simulation facility and other related requirements, 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.		