

October 18, 2018

NOTICE OF MEETING
OF THE
BOARD OF PILOT COMMISSIONERS
FOR THE
PORTS OF HARRIS COUNTY

In accordance with the official practice of the Board of Pilot Commissioners for the Ports of Harris County, there is attached hereto a copy of the Agenda of the meeting of the Board of Pilot Commissioners for the Ports of Harris County to be held on October 30, 2018. The Pilot Board will meet at 9:15 a.m., or thereafter, immediately following the adjournment of the regular Port Commission meeting, at the Port of Houston Authority Executive Office Building, Fourth Floor Boardroom, 111 East Loop North, Houston, Texas 77029, with the Executive Session convening following the adjournment of the Public Session and the Public Session reconvening following the adjournment of the Executive Session, to consider any items from the Executive Session that may require action and conduct any further business.

BOARD OF PILOT COMMISSIONERS
PORTS OF HARRIS COUNTY, TEXAS



SECRETARY



Tuesday, October 30, 2018
BOARD OF PILOT COMMISSIONERS FOR HARRIS COUNTY PORTS

9:15 a.m.
111 East Loop North
Houston, TX 77029
Fourth Floor Boardroom

A. CALL TO ORDER

B. CHAIRMAN'S REMARKS

C. APPROVAL OF MINUTES

1. Board of Pilot Commissioners Public Meeting - September 25, 2018

D. APPEARANCES

1. Public Comment

E. STAFF REPORTS

F. GENERAL

1. Cancel the Pilot Board hearing scheduled for October 30, 2018 to consider the Houston Pilots' application for a change in pilotage rates effective January 1, 2019.
2. Consideration and possible actions regarding adoption of a rule with respect to policies, rules, standards, and procedures promulgated by the Houston Pilots Association.
3. Consideration and possible actions regarding the following Houston Pilots announcements: "Traffic Management Protocols for Vessels over 1100 feet in length" announced on June 29, 2018; Restrictions for container vessels with dimensions greater than 1000 feet LOA or 138 feet beam, dated August 15, 2018; and "Combined Length Overall for Meeting Vessels" rule announced on August 17, 2018.

G. PILOT MATTERS

1. Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Sean M. Cook.
2. Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Donald C. King.

3. Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Chad M. Prejean.
4. Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Charles R. Schuessler.
5. Recommendation for original Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Kevin B. Keith.
6. Recommendation for original Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Justin J. Phillips.

H. RECESS OPEN MEETING AND CONVENE EXECUTIVE SESSION

1. Economic Development Negotiations or Incentives (Section 551.087, Texas Open Meetings Act) Employment and Evaluation of Public Officers and Employees (Section 551.074, Texas Open Meetings Act), including deliberations regarding public employees
2. Adjourn Executive Session

I. RECONVENE OPEN MEETING

1. Announce any items from Executive Session requiring Pilot Board action

J. ADJOURN MEETING

1. Next Meeting Requested - December 12, 2018
2. Adjourn Pilot Board Meeting

F. GENERAL

Subject 1. Cancel the Pilot Board hearing scheduled for October 30, 2018 to consider the Houston Pilots' application for a change in pilotage rates effective January 1, 2019.

Meeting Oct 30, 2018 - BOARD OF PILOT COMMISSIONERS FOR HARRIS COUNTY PORTS

Access Public

Type Action

Recommended Action The Board of Pilot Commissioners, at its October 30, 2018 meeting, cancel the Pilot Board hearing scheduled for October 30, 2018 to consider the Houston Pilots' application for a change in pilotage rates effective January 1, 2019, 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.

Category:
General

Department:
Executive

Staff Contact:
Erik Eriksson

Background:

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.

By letter dated September 11, 2018, the Houston Pilots (the "Pilots") submitted an application to the Pilot Board for a change in such pilotage rates and other matters (the "Application").

On September 25, 2018, the Pilot Board set a date to commence a hearing on such Application, i.e. the regularly scheduled Pilot Board meeting of October 30, 2018.

The Pilots have now withdrawn the Application by letter to the Pilot Board dated October 18, 2018.

Staff Evaluation/Justification:

Accordingly, staff requests that the Pilot Board cancel its hearing scheduled for October 30, 2018 to consider the Houston Pilots' application for a change in pilotage rates effective January 1, 2019.

F. GENERAL

Subject **2. Consideration and possible actions regarding adoption of a rule with respect to policies, rules, standards, and procedures promulgated by the Houston Pilots Association.**

Meeting Oct 30, 2018 - BOARD OF PILOT COMMISSIONERS FOR HARRIS COUNTY PORTS

Access Public

Type Action

Recommended Action The Board of Pilot Commissioners, at its October 30, 2018 meeting, consider and take possible actions regarding adoption of a rule with respect to policies, rules, standards, and procedures promulgated by the Houston Pilots Association, 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.

Category:

General

Department:

Executive

Staff Contact:

Erik Eriksson

Background:

Transportation Code Section 66.015 provides in part that the Board of Pilot Commissioners for the Ports of Harris County (the "Pilot Board") "has exclusive jurisdiction over the piloting of vessels in Harris County ports[.]" Section 66.016 goes on to state in part that the Pilot Board "may perform any act or function necessary to carry out its powers and duties under this chapter[.]" and "may adopt rules to carry out [Transportation Code Chapter 66.]"

In addition, Transportation Code Section 66.017(9) requires that the Pilot Board "adopt rules and issue orders to pilots or vessels when necessary to secure efficient pilot services[.]"

Staff Evaluation/Justification:

The Pilot Board may wish to deliberate whether action by the Pilot Board should be taken with respect to the proposed Section 15(I) of the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel between the Galveston Bar and Turning Basin attached hereto.

Since Transportation Code Sec. 66.020(a) provides in part that the Pilot Board "shall give at least 10 days' notice as provided by this section before the board adopts a rule[.]" and Section 66.020(b) goes on to provide that the board "shall post the notice and a copy of the proposed rule or change at the board office for public inspection," notice of such proposed rule and a copy thereof was publicly posted on October 18, 2018 at the office of the Pilot Board.

The Houston Pilots Association shall provide the Secretary of the Pilot Board with its current navigation safety guidelines, working rules, tug matrices, pilot availability and training requirements, project guidelines, pilot ordering, mariners booklets, and other informational circulars, and other generally applicable policies, rules, standards, or procedures applicable to Pilots or the ports and navigable waters subject to the jurisdiction of the Pilot Board (collectively, "Pilot Policies"), within three (3) business days following the request of the Pilot Board or Secretary. The Houston Pilots Association shall give at least twenty (20) days written notice to the Secretary of the Pilot Board before the effective date of any proposal to adopt or amend a Pilot Policy, and with such notice provide a copy of the proposed Pilot Policy or amendment and describe the considerations supporting such action. The Pilot Board may review, and adopt rules and issue orders, including without limitation denial, approval, or modification, with respect to any such proposed adoption or amendment of Pilot Policies, pursuant to its powers and duties under the Act.

Notwithstanding the foregoing, the Houston Pilots Association may adopt or amend navigation safety guidelines, prior to consideration by the Pilot Board, if necessary:

- 1) as a result of changed circumstances to maintain navigational safety within the ports and navigable waters under the jurisdiction of the Pilot Board; or
- 2) to comply with directives issued by:
 - (a) the United States Coast Guard;
 - (b) the federal Department of Transportation, including the Maritime Administration;
 - (c) the federal Department of Homeland Security; or
 - (d) any other federal or state agency with authority over the ports and navigable waters within the jurisdiction of the Pilot Board.

The Houston Pilots Association shall notify the Secretary of any such adoption or amendments not later than forty eight (48) hours after such action, and with such notice provide a copy of such new or amended navigation safety guidelines, and describe the considerations supporting such action. The Pilot Board reserves its right to review and adopt rules and issue orders with respect to any such action.

F. GENERAL

Subject **3. Consideration and possible actions regarding the following Houston Pilots announcements: "Traffic Management Protocols for Vessels over 1100 feet in length" announced on June 29, 2018; Restrictions for container vessels with dimensions greater than 1000 feet LOA or 138 feet beam, dated August 15, 2018; and "Combined Length Overall for Meeting Vessels" rule announced on August 17, 2018.**

Meeting Oct 30, 2018 - BOARD OF PILOT COMMISSIONERS FOR HARRIS COUNTY PORTS

Access Public

Type Action

Recommended Action The Board of Pilot Commissioners, at its October 30, 2018 meeting, consider and take possible actions regarding the following Houston Pilots announcements:

"Traffic Management Protocols for Vessels over 1100 feet in length" announced on June 29, 2018;

Restrictions for container vessels with dimensions greater than 1000 feet LOA or 138 feet beam, dated August 15, 2018; and

"Combined Length Overall for Meeting Vessels" rule announced on August 17, 2018, 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.

Category:

General

Department:

Executive

Staff Contact:

Erik Eriksson

Background:

1. On June 29, 2018, Captain Mark Mitchem, Presiding Officer of the Houston Pilots, transmitted an email message to the Port Authority, which announced "Traffic Management Protocols for Vessels over 1100 feet in length." These provided in part that "container vessels over 1000' in length are daylight restricted," and "container vessels over 1100' in length will meet no other ship traffic above buoy #18." The "protocols" also addresses the maximum size of vessels at the Port Authority's container terminals, and departure and arrival procedure changes resulting from the movement of container vessels over 1,100 feet in length.

2. On or about August 15, 2018, the Houston Pilots added the following materials to the "Houston Pilots Working Rules, including Navigation Safety Guidelines for the Houston Ship Channel:"

The following restrictions apply for all container vessels with dimensions greater than 1000' LOA or 138' beam: 2 pilots, daylight restriction, cranes raised, restricted bunkering in place with no dredges in the navigable channel of Bayport Ship Channel or Barbours Cut (when transiting to Bayport or Barbours Cut, respectively).

3. Finally, on August 17, 2018, Captain Mitchem transmitted an email message to members of the Port of Houston maritime community, which included the following:

After consideration by our membership the Houston Pilots have instituted a new "Combined Length Overall for Meeting Vessels" rule for ships transiting the Houston Ship Channel.

The new Combined Length Overall rule will not allow the combined length of vessels transiting above Buoy 18 to exceed 2030 feet overall when meeting opposing ship traffic. As you know, ships over 1100 feet in length will meet no ship traffic above buoy 18 at this time.

Traffic will be adjusted accordingly to comply with the Combined LOA rule. We expect any delays due to this new rule to be very minimal.

Staff Evaluation/Justification:

Transportation Code Section 66.015 provides in part that the Board of Pilot Commissioners for the Ports of Harris County (the "Pilot Board") "has exclusive jurisdiction over the piloting of vessels in Harris County ports[.]" Section 66.016 goes on to state in part that the Pilot Board "may perform any act or function necessary to carry out its powers and duties under this chapter[.]" and "may adopt rules to carry out [Transportation Code Chapter 66.]"

In addition, Transportation Code Section 66.017(9) requires that the Pilot Board "adopt rules and issue orders to pilots or vessels when necessary to secure efficient pilot services[.]"

The Pilot Board may wish to deliberate whether action by the Pilot Board is required following the above-referenced Houston Pilot announcements, both under its plenary powers provided for in Section 66.016, and its duties under Section 66.017(9).

Since Transportation Code Sec. 66.020(a) provides in part that the Pilot Board "shall give at least 10 days' notice as provided by this section before the board adopts a rule[.]" and Section 66.020(b) goes on to provide that the board "shall post the notice and a copy of the proposed rule or change at the board office for public inspection," any such action should be taken at a subsequent meeting of the Pilot Board in order to first comply with these Transportation Code provisions.