

I N D E X

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

October 22, 2013

*Minute No.*

*Event/Action*

**General**

Chairman Longoria convened the meeting of the Board of Pilot Commissioners

**Recess Open Meeting and Convene Executive Session**

**Adjourn Executive Session and Reconvene Open Meeting**

**Minutes**

(PB-2013-1022-01) Approve the Minutes of the Board of Pilot Commissioners Meeting – September 24, 2013

**Pilot Matters**

(PB-2013-1022-02) Commence a hearing to consider the Houston Pilots' application to the Pilot Board for a change in pilotage rates effective January 1, 2014

(PB-2013-1022-03) Recommendation for renewal of Branch Pilot commission in and for the Houston Ship Channel and Galveston Bar: Captain Kenneth Jones

(PB-2013-1022-04) Recommendation for Branch Pilot Commission in and for the Houston Ship Channel and Galveston Bar: Captain Michael K. Lawson II

Adjourn the meeting of the Board of Pilot Commissioners

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

**Houston, Texas  
October 22, 2013**

A public meeting of the Board of Pilot Commissioners for Harris County Ports (the "Pilot Board") was convened on October 22, 2013 at 12:23 p.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 H. DonCarlos, Commissioner  
Clyde E. Fitzgerald, Commissioner  
John D. Kennedy, Commissioner  
Roy D. Mease, Commissioner  
Len Waterworth, Secretary  
Erik Eriksson, General Counsel and Assistant Secretary  
David H. Brown, Brown & Kornegay, LLP  
J. Kent Friedman, Haynes and Boone, LLP

Chairman Longoria called the meeting to order and instructed Mr. Eriksson to read the following announcement:

It is now 12:23 p.m. The Board of Pilot Commissioners for Harris County Ports will now convene in a closed meeting, as permitted by the Texas Open Meetings Act and Government Code, (i) to conduct a private consultation with its 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; (ii) Real Estate (Section 551.072, Texas Open Meetings Act); (iii) Economic Development Negotiations or Incentives (Section 551.087, Texas Open Meetings Act); (iv) Employment and Evaluation of Public Employees (Section 551.074, Texas Open Meetings Act), including deliberations regarding public employees; and (v) Security-Related Matters (Sections 418.175-418.183 of the Texas Government Code, and Section 551.076, Texas Open Meetings Act). The Board of Pilot Commissioners will reconvene in public session after the closed meeting is adjourned.

Immediately thereafter the Board of Pilot Commissioners retired into closed session.

At 12:37 p.m., the open meeting reconvened at the Port of Houston Authority Executive Office Boardroom, at 111 East Loop North, Houston, Texas 77029, with the following Commissioners, staff, and counsel in attendance:

Janiece Longoria, Chairman  
Theldon R. Branch, III, Commissioner  
Dean E. Corgy, Commissioner  
Stephen H. DonCarlos, Commissioner  
Clyde E. Fitzgerald, Commissioner  
John D. Kennedy, Commissioner  
Roy D. Mease, Commissioner  
Len Waterworth, Secretary  
Erik Eriksson, General Counsel and Assistant Secretary  
David H. Brown, Brown & Kornegay, LLP  
J. Kent Friedman, Haynes and Boone, LLP

(PB-2013-1022-01) Chairman Longoria asked for a motion to approve the Pilot Board minutes of its September 24, 2013 meeting. The motion was brought by Commissioner Fitzgerald, seconded by Commissioner Kennedy. Chairman Longoria and Commissioners Branch, Corgy, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. The minutes were approved as written.

Chairman Longoria asked if anyone would like to address the Pilot Board; there was no response. She asked if there were any stakeholders who would like to address the Pilot Board regarding the request of the pilots for a rate increase; there was no response.

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

(PB-2013-1022-02) RPBA F1 was presented, moved by Commissioner Kennedy, seconded by Commissioner Mease. Chairman Longoria and Commissioners Branch, Corgy, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA F1 PASSED.

Chairman Longoria commenced the hearing to consider the Houston Pilots' application to the Pilot Board for a change in the pilotage rates effective January 1, 2014. She noted the hearing rate schedule was provided in the public meeting book and available on the Pilot Board website, reviewed the timeline, and discussed public comments, oral presentations, and written rebuttal procedures and deadlines.

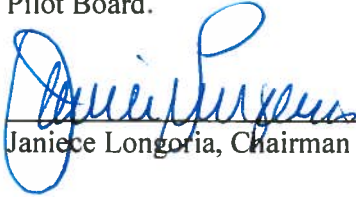
The hearing was then continued until the next regular meeting of the Pilot Board.

(PB-2013-1022-03) RPBA F2 was presented, moved by Commissioner Corgey, seconded by Commissioner Kennedy. Chairman Longoria and Commissioners Branch, Corgey, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA F2 PASSED.

(PB-2013-1022-04) RPBA F3 was presented, moved by Commissioner DonCarlos, seconded by Commissioner Kennedy. Chairman Longoria and Commissioners Branch, Corgey, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA F3 PASSED.

At 12:43 p.m. Chairman Longoria adjourned the meeting of the Pilot Board.

The above is a correct copy of the Minutes of the October 22, 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 Board of Pilot Commissioners Action

<b>Category:</b> General	<b>Agenda Date:</b> October 22, 2013	<b>Agenda Section:</b> F - 1
<b>Division:</b> Legal <b>Department:</b> Pilot Administration	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Commence a 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 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>		
<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.</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>		
<b>Full Recommendation:</b> <p>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.</p>		

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 <sup>1</sup>	October 11, 2013
Posting of notice of October 22, 2013 Pilot Hearing <sup>2</sup>	October 11, 2013
Pilot Rate Hearing opens	October 22, 2013
Deadline for written submission by interested parties <sup>3</sup>	November 1, 2013
Continued Hearing: oral presentations <sup>4</sup>	November 18, 2013
Deadline for rebuttal submissions <sup>5</sup>	December 2, 2013
Hearing is deemed complete eight (8) days after rebuttal submissions <sup>6</sup> and rate decision to be issued, including effective date <sup>7</sup>	December 10, 2013
Within fourteen (14) days, an aggrieved party may request reconsideration of the decision <sup>8</sup>	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 <sup>9</sup>	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.

### Request for Pilot Board Action

<b>Category:</b> Pilot Matters	<b>Agenda Date:</b> October 22, 2013	<b>Agenda Section:</b> F - 2
<b>Division:</b> Legal <b>Department:</b> Pilot Administration	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Recommendation for renewal of Branch Pilot Commission in and for the Houston Ship Channel and Galveston Bar: Captain Kenneth Jones.		
<b>Background:</b> Prior authorizing Pilot Board action: Minute No. 2009-1215-53  The Application Review Committee (ARC) of the Pilot Board considers whether applicants meet the statutory and regulatory requirements for pilots on the Houston Ship Channel. Among other things, applicants undergo a physical examination to determine if an applicant is in good mental and physical health in order to perform the duties of pilotage on the Houston Ship Channel, and an investigation including a criminal background check and the applicant's accident history is conducted.		
<b>Staff Evaluation/Justification:</b> Captain Kenneth Jones has applied for renewal of his commission as Branch Pilot for the Galveston Bar and Houston Ship Channel. His application includes continued education training in Basic Azipod Training, Radar Plotting Aids (ARPA), Fatigue, sleep, & medication course, and Radar Observer (recertification) and a renewal request on his behalf from the Houston Pilots and evidence of his ability to enter into a faithful performance bond in the amount of \$25,000 payable to the governor.  After an assessment of his qualifications and the documents filed with his application, the ARC determined that Captain Kenneth Jones meets the requirements of Chapter 66 of the Texas Transportation Code, Houston Pilots Licensing and Regulatory Act, Section 66.041, and the Rules and Regulations governing Pilots and Pilotage on the Houston Ship Channel Between the Galveston Bar and the Turning Basin Terminal.  Accordingly, the ARC respectfully submits to the Pilot Board the application of Captain Kenneth Jones to renew his commission as Branch Pilot for the Galveston Bar and the Houston Ship Channel. Such commission is for a four-year term.		
<b>Full Recommendation:</b> The Pilot Board, at its October 22, 2013 meeting, recommend to the Governor the renewal of the commission of Captain Kenneth Jones as Branch Pilot for the Galveston Bar and the Houston Ship Channel for a four-year term effective January 22, 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.		



## Request for Pilot Board Action

<b>Category:</b> Pilot Matters	<b>Agenda Date:</b> October 22, 2013	<b>Agenda Section:</b> F - 3
<b>Division:</b> Legal <b>Department:</b> Pilot Administration	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Recommendation for Branch Pilot Commission in and for the Houston Ship Channel and Galveston Bar: Captain Michael K. Lawson II.		
<b>Background:</b> Prior authorizing Pilot Board action: Minute No. 2010-1214-02  The Application Review Committee (ARC) of the Pilot Board considers whether applicants meet the statutory and regulatory requirements for pilots on the Houston Ship Channel. Among other things, applicants undergo a physical examination to determine if an applicant is in good mental and physical health in order to perform the duties of pilotage on the Houston Ship Channel, and an investigation including a criminal background check and the applicant's accident history is conducted.		
<b>Staff Evaluation/Justification:</b> Captain Michael K. Lawson II has applied for commission as Branch Pilot for the Galveston Bar and Houston Ship Channel. Captain Lawson will have successfully completed a three year apprenticeship performing all aspects and duties required of a Branch Pilot. His application includes continued education training in Bridge Resource Management – Pilots, Raven Wheelhouse II AIS Navigation System, Azimuth Stern Dive Tug Handling, Emergency Ship Handling, Legal Aspects of Piloting, and Manned Model Ship Handling and a request on his behalf from the Houston Pilots and evidence of his ability to enter into a faithful performance bond in the amount of \$25,000 payable to the governor.  After an assessment of his qualifications and the documents filed with his application, the ARC determined that Captain Michael K. Lawson II meets the requirements of Chapter 66 of the Texas Transportation Code, Houston Pilots Licensing and Regulatory Act, Section 66.033, and the Rules and Regulations governing Pilots and Pilotage on the Houston Ship Channel Between the Galveston Bar and the Turning Basin Terminal.  Accordingly, the ARC respectfully submits to the Pilot Board the application of Captain Michael K. Lawson II for his commission as Branch Pilot for the Galveston Bar and the Houston Ship Channel. Such commission is for a four-year term.		
<b>Full Recommendation:</b> The Pilot Board, at its October 22, 2013 meeting, recommend to the Governor the commission of Captain Michael K. Lawson II as Branch Pilot for the Galveston Bar and the Houston Ship Channel for a four-year term effective December 14, 2013, 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.		