

I N D E X

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

May 19, 2015

<i>Minute No.</i>	<i>Event/Action</i>
	<b>General</b>
(PB-2015-0519-01)	Chairman Longoria convened the meeting of the Board of Pilot Commissioners
	<b>Minutes</b>
(PB-2015-0519-02)	Approve the Minutes of the Board of Pilot Commissioners Meeting – April 28, 2015
	<b>Appearances</b>
(PB-2015-0519-03)	Chairman Longoria introduced Captain Brian Penoyer, Commander, Coast Guard Sector Houston-Galveston, who addressed the Port Commission
	<b>Staff Reports</b>
(PB-2015-0519-04)	There were no staff reports
	<b>Pilot Matters</b>
(PB-2015-0519-05)	There were no pilot matters
	Adjourn the meeting of the Board of Pilot Commissioners

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

**Houston, Texas  
May 19, 2015**

A public meeting of the Board of Pilot Commissioners for Harris County Ports (the "Pilot Board") was convened on May 19, 2015 at 10:28 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  
Dean E. Corgey, Commissioner  
John D. Kennedy, Commissioner  
Roy D. Mease, Commissioner  
Roger Guenther, Secretary  
Erik Eriksson, General Counsel and Assistant Secretary  
J. Kent Friedman, Haynes and Boone, LLP

(PB-2015-0519-01) Chairman Longoria convened the meeting of the Board of Pilot Commissioners.

(PB-2015-0519-02) Chairman Longoria called for a motion to approve the minutes of the April 28, 2015 Pilot Board meeting. Commissioner Corgey moved for approval of the minutes, seconded by Commissioner Kennedy. Chairman Longoria, and Commissioners Corgey, Kennedy, and Mease voted Aye. Nays none. The minutes were approved as written.

(PB-2015-0519-03) Chairman Longoria introduced Captain Brian Penoyer, Commander, U.S. Coast Guard Sector Houston-Galveston, who addressed the Pilot Board.

Captain Penoyer thanked Pilot Board members for the opportunity to address them to discuss the scope and role of the U.S. Coast Guard ("Coast Guard") in the investigation of accidents. He began by stating that he valued the Coast Guard's relationship with the Pilot Board in remedying the causes of accidents that are within its scope of control, and thanked the Pilot Board for all it has done on behalf of safety. Captain Penoyer stated that the Port Authority has his support and he hoped that any impediments to information sharing between the Coast Guard and the Pilot Board can be remedied.

Captain Penoyer began his discussion with 14 USC 89, one of the statutes that govern the Coast Guard's accident investigation duties. He noted that this is the fundamental law enforcement authority of the Coast Guard and gives it the authority and responsibility to board vessels, make inquiries, conduct inspections, and so on, for the purpose of enforcing all applicable laws and treaties of the United States.

Captain Penoyer explained that when a member of the Coast Guard boards a vessel to conduct an investigation, regardless of whether it is a reportable marine casualty, an accident, or due to another cause, the Coast Guard is always there under 14 USC 89 to enforce all applicable laws and treaties. He added that the Pilot Board more commonly learns of Coast Guard involvement following an accident owing to its role to determine the causes of an accident under 46 USC 63. That statute is Congress's direction to the Coast Guard to find out why bad things happen and stop them from happening in the future, and more specifically, to determine the causes of a casualty, that being the broad term for any unwonted maritime event, from the loss of propulsion on the ship channel, to a collision, to an actual death or injury.

Captain Penoyer noted that the Coast Guard is essentially the tender of the maritime safety system. Its purpose in any investigation is to determine causes at all levels, ranging from the individual actions of mariners through the large-scale actions of organizations, including the U.S. government and shipping companies.

Chairman Longoria asked if during its determination of violation of criminal law whether the Coast Guard looks only at the federal criminal statutes, or also looks at state statutes. Captain Penoyer replied that its specific responsibility was federal criminal statutes, but that the Coast Guard works in collaboration with state entities regarding other criminal violations and refers that evidence to such agencies with the responsibility to determine whether it constitutes evidence of a criminal infraction or not.

Captain Penoyer continued by stating that within the scope of these investigations the Coast Guard, and he specifically, have been granted the authority to subpoena, without court supervision, evidence and testimony, and that they do so on a regular basis. He then noted that such investigations are prohibited from use in civil proceedings. Captain Penoyer noted there had been some confusion in the past but wanted to clarify that the intent of the Coast Guard and the framers of the statute was that agencies such as the Pilot Board and the Coast Guard should collaborate to figure out what happened and how matters can be remedied, and he emphasized that he is committed to removing any impediments to that collaboration.

Captain Penoyer then advised that it is the Coast Guard's nationally consistent policy that all enforcement actions, from criminal through administrative, will be taken in a remedial tone and that he views his role as the "risk manager of last resort." He explained that he is ultimately responsible for safety in the port but will not take remedial action where others have already. Captain Penoyer continued to explain it was also important that the exchange of information remain an open two-way street, because he cannot calibrate appropriately what the necessary enforcement action would be if he does not have the full picture of what others involved are doing. He concluded by stating that

he is fortunate to have the partners and relationships in Houston where that flow of information is simply magnificent, and then asked if there were any questions.

Commissioner Corgey asked if Captain Penoyer had found, in the course of his inspections on vessels, good compliance with International Maritime Organization regulations, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, and the International Convention for the Safety of Life at Sea. He reported that the answer was overwhelmingly yes; however, the Coast Guard continues to find routine, but not minor, violations of international safety codes and independent U.S. safety codes. Captain Penoyer reported they have also discovered some substantial non-compliance with international treaties that result in the detention of vessels, i.e. that the immediate life-safety issues of primary lifesaving and firefighting systems were inoperative, which endangers not only the port but also the mariners onboard. He then thanked the Port Authority for its role as essentially the “fire chief for the port,” and for being instrumental in many of those detentions because they are a danger to the port, and commended the response of the Port Authority’s Fire Department to those matters.

Commissioner Corgey commented that he appreciated the good work of Captain Penoyer, because it is imperative that vessels were in compliance before they come into port, the first step in the safety protocol. Captain Penoyer agreed and added that it is a system and it would be no good to tend the regulations and policy if there was no compliance with those regulations and policy.

Chairman Longoria thanked Captain Penoyer for the brilliant job that he has done and the partnership that has been established with the Pilot Board and the Houston Pilots, and everyone that has been involved in assuring that we have the most functional channel in the nation. She then asked Captain Penoyer to comment on the recent tour hosted for the U.S. Army Corps of Engineers (“Corps”) that he and the Houston Pilots attended, to try to underscore the safety issues in the Houston Ship Channel and the need for federal support to correct those issues.

Captain Penoyer stated that he appreciated the opportunity to be a part of the meeting with the Corps and that he has a fantastic rapport with Colonel Pannell. He recalled that Captain Morris wrote an article about when ships outgrow their ditches, and that dynamic was something he wanted to illustrate for the Corps. Captain Penoyer explained that the Corps has the design specification of vessels but there is a gap between the theory and the practice, so he had the opportunity to talk with Corps representatives about the really magnificent job the pilots do every single day, actually performing a maneuver they do so proficiently, but that maneuver has no safety margin and that if the pilots get it wrong there is very little opportunity to recover.

Captain Penoyer reported that they also discussed the Bayport Flare and a few other navigational challenges. He thanked the Houston Pilots for their help in pointing out those areas where the channel presents particular navigational difficulties, as they have a view on the unique characteristics of awkwardly handling ships that no one else would have; these areas of concern were also discussed with the Corps. Captain Penoyer added that it was eye opening to the Corps to understand how commerce moves in the Port of Houston, how many ships came from foreign nations and how many go to foreign nations. After being on the ship channel and sharing with them the amount of commodity flow within the port, Corps representatives saw the need to revise their model that calculates what goes on in the port, as the current model does not capture Houston.

Chairman Longoria commented that when the Corps saw the wide-bodied tanker, were informed about the collision and the potential disaster for our channel and for the community and port at large, and saw the narrowness of the channel, those pieces came together and all three levels of that agency appreciated the significant safety issue, which provided an opportunity for everybody to get on the same page and get it fixed.

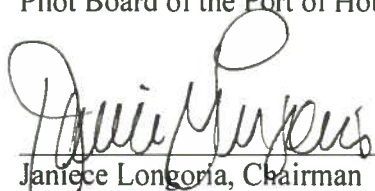
Chairman Longoria thanked Captain Penoyer for the part that he played in educating the Corps about this opportunity to increase the safety and navigability of the channel, and she also thanked Captain Morris and the Houston Pilots for really turning attention to and getting everybody engaged to get this done. She thanked everyone again for their partnership and assuring that we have the safest navigable channel possible.

(PB-2015-0519-04) Chairman Longoria announced there were no staff reports.

(PB-2015-0519-05) Chairman Longoria announced there were no pilot matters.

Chairman Longoria asked if there were any items for executive session; hearing none, at 10:45 a.m., Chairman Longoria adjourned the Pilot Board meeting.

The above is a correct copy of the Minutes of the May 19, 2015 meeting of the Pilot Board of the Port of Houston Authority.

  
\_\_\_\_\_  
Janiece Longoria, Chairman

  
\_\_\_\_\_  
Erik A. Eriksson, Assistant Secretary