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

April 26, 2016

<i>Minute No.</i>	<i>Event/Action</i>
	General
	Chairman Longoria convened the meeting of the Board of Pilot Commissioners
	Minutes
(PB-2016-0426-01)	Approve the Minutes of the Board of Pilot Commissioners Meeting – March 22, 2016
	Pilot Matters
(PB-2016-0426-02)	Appoint Captain Mike Usher as Assistant Secretary of the Board of Pilot Commissioners for Harris County Ports
(PB-2016-0426-03)	Approve the Pilot Board Investigation and Recommendation Committee's (PBIRC) proposed findings and recommendations regarding the M/V MONTE ALEGRE collision with the M/T CHEMBULK HOUSTON on March 5, 2015, in the Houston Ship Channel
	Adjourn Meeting

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

**Houston, Texas
April 26, 2016**

A public meeting of the Board of Pilot Commissioners for Harris County Ports (the "Pilot Board") was convened on April 26, 2016 at 10:30 a.m., at the Port of Houston Authority Executive Offices, Fourth Floor Boardroom, at 111 East Loop North, Houston, Texas 77029. The following Commissioners and staff 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
Roger Guenther, Secretary
Erik Eriksson, General Counsel

Chairman Longoria convened the meeting of the Board of Pilot Commissioners.

(PB-2016-0426-01) Chairman Longoria called for a motion to approve the minutes of the March 22, 2016 Pilot Board meeting. Commissioner Mease moved for approval, seconded by Commissioner Corgey. Chairman Longoria, and Commissioners Branch, Corgey, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. The minutes were approved as written.

Chairman Longoria asked if there were any appearances; hearing none she moved to Pilot Matters.

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

(PB-2016-0426-02) RPBA F1 was presented, moved by Commissioner Mease, seconded by Commissioner Fitzgerald. Chairman Longoria, and Commissioners Branch, Corgey, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA F1 PASSED.

(PB-2016-0426-03) RPBA F2 was presented.

Chairman Longoria stated that the Pilot Board Investigation and Recommendation Committee ("PBIRC") had met and heard testimony, and Mr. Woodring would provide a brief summary of the proposed findings and recommendations regarding the M/V MONTE ALEGRE collision with the M/T CHEMBULK HOUSTON on March 5, 2015, in the Houston Ship Channel.

Mr. Woodring reported that both vessels were inbound and the CHEMBULK HOUSTON attempted to overtake the MONTE ALEGRE when the collision occurred. The PBIRC held a full hearing in January and the National Transportation Safety Board (“NTSB”) released its findings in late February.

Mr. Woodring noted that the PBIRC’s findings and recommendations, as per the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel Between the Galveston Bar and Turning Basin (the “Rules”), go to the “Pilots Affected” and that Captain Rodrigues, the pilot on the MONTE ALEGRE, had formally requested reconsideration of the PBIRC’s proposed findings and recommendations. The request was taken under consideration and denied on March 17th. Counsel for Captain Rodrigues then immediately requested a full hearing before the Pilot Board; that request was subsequently withdrawn on April 8th. Mr. Woodring concluded that the proposed findings and recommendations stand with no appeals pending.

For the CHEMBULK HOUSTON, the PBIRC’s proposed findings state there was no actionable misconduct by Captain Parker in contributing to the collision between the two vessels. The recommendations for Captain Parker, by a vote of 6-3, are that the matter be closed to file, and Captain Parker be directed to validate all his planning assumptions and to attend both Manned Model Ship Handling and Emergency Ship Handling courses as soon as scheduling permits.

For the MONTE ALEGRE, Mr. Woodring reported that the PBIRC’s proposed findings state that Captain Rodrigues made an error in judgment by keeping the speed of the MONTE ALEGRE at half ahead for more than necessary to “check her up,” thereby adversely affecting the overtaking CHEMBULK HOUSTON. The recommendations for Captain Rodrigues, by a vote of 9-0, are that a Letter of Caution be issued, that the Houston Pilots review the duties and responsibilities of the “#1 Pilot on the Bar,” and that he attends both Manned Model Ship Handling and Emergency Ship Handling courses as soon as scheduling permits.

Chairman Longoria asked for clarification on the 6-3 vote, as to what the three members proposed. Mr. Woodring replied that those members voted that a Letter of Caution be issued to Captain Parker; discussion centered on whether he should have gotten in the overtaking situation to begin with, based on several factors including the weather. Chairman Longoria clarified that six members voted in favor of the recommendations issued to Captain Parker; Mr. Woodring confirmed that was correct.

Chairman Longoria then clarified that a unanimous vote of 9-0 supported the proposed findings and recommendations as they related to Captain Rodrigues; Mr. Woodring confirmed that was correct, and added that the PBIRC was unable to take into

account the findings of the NTSB at its January hearing, as those findings were not released until February.

Chairman Longoria asked how the NTSB's findings differed from the PBIRC's findings. Mr. Woodring replied that the NTSB report states that "the NTSB determines that the probable cause of the collision between the CHEMBULK HOUSTON and the MONTE ALEGRE was the pilot's decision to increase speed on the MONTE ALEGRE without informing the Deputy Pilot on the overtaking CHEMBULK HOUSTON," and that matches exactly with what the PBIRC found a month before those findings were released.

Chairman Longoria asked for a motion to accept the PBIRC's proposed findings and recommendations. Commissioner Fitzgerald moved for approval, seconded by Commissioner Corgey.

Commissioner Mease asked if anything other than a Letter of Caution has been issued against pilots when they made a mistake, questioning whether that was done regardless of what happened. Mr. Woodring responded that during the three years he had been Chairman of the PBIRC, nothing higher than a Letter of Caution had been issued. Commissioner Mease suggested that there should be something higher than a Letter of Caution to get a pilot's attention, as there are times that a more severe penalty seemed warranted.

Mr. Woodring stated he would take Commissioner Mease's concerns to the PBIRC and noted that this matter came very close to having a hearing before the Pilot Board, at which the Pilot Board would make its findings.

Chairman Longoria inquired about the transcripts of testimony taken at the PBIRC hearing. Mr. Woodring responded those were available through BoardDocs. Chairman Longoria asked for a description of the PBIRC members and their qualifications, so the board would be aware of the level of industry and maritime experience of those that recommended the proposed findings and recommendations by a vote of 9-0.

Mr. Woodring responded that the Rules state the chairman of the PBIRC must be a Port Authority employee, and given his previous service as Captain of the Port, the role of chairman fell to him. His experience includes 28 years of Coast Guard service including 7 to 8 years at sea on ships.

The second member is the Presiding Officer of the Houston Pilots Association, currently Captain Robert Shearon, who has 20 to 30 years experience handling ships on the Houston Ship Channel. Two more positions are also filled by the Houston Pilots, so

three of the nine members are Houston Pilots. These members are Captain Sean Arbogast, with approximately 11 years of experience on the Houston Ship Channel, and Captain Michael Curtiss, with approximately 15 years.

Other members include Captain Richard Ford, retired Coast Guard Captain of the Port in Houston; Captain David Foret with the towing industry, who represents brown water with 30 years experience; Captain Richard Russell with AET Tankers, who has over 30 years' experience; Paul Caruselle, who has been on the committee over 30 years and is currently with Moran Shipping; Tom Marian, legal counsel from Buffalo Marine with over 20 years in the Coast Guard; and a non-voting member from the Coast Guard, Mark Bottiglieri, who advises the PBIRC on how the Coast Guard investigation is going. Of the nine members, there is over 230 years of maritime experience.

Chairman Longoria asked what it means to issue a Letter of Caution to a pilot's file. Mr. Woodring explained that the Rules and state statutes give the PBIRC several options. The levels include (i) issue a Letter of Commendation, (ii) take no action, (iii) issue a Letter of Caution, (iv) issue a Letter of Reprimand, (v) suspend a pilot's commission for up to 6 months, or (vi) recommend that the governor revoke a pilot's commission.

Mr. Woodring advised that a Letter of Caution goes into the pilot's file and is not considered for a pilots' renewal but rather it documents an incident and going forward could lead to a series of incidents that may lead to a bigger issue.

Chairman Longoria asked if a suspension is required if a Letter of Reprimand is issued; Mr. Woodring replied it is not. Chairman Longoria clarified that there could be a Letter of Reprimand, along with an up to six-month suspension; Mr. Woodring responded that was correct, stating that a letter to the governor would accompany a request for suspension or revocation of a pilot's commission.

Chairman Longoria asked if the history of a pilot and the service the pilot provided is considered in connection with an incident the PBIRC is investigating and making findings on; Mr. Woodring replied yes, and added that the history was discussed in closed session.

Chairman Longoria asked if Captain Rodrigues had been the subject of any Letters of Caution or Reprimands in the past. Mr. Woodring replied yes; there was another case in 2006. Chairman Longoria asked if that was considered during the PBIRC's deliberations; Mr. Woodring noted that according to the Rules, the PBIRC can review any sanctions issued to the pilot affected during the five years prior to the incident in question, to determine if there are any recurring issues of concern, so though they were aware of the incident from ten years ago it was not a factor in this investigation.

Chairman Longoria noted that after its examination and findings, the NTSB made the same determination as the PBIRC. Mr. Woodring responded that was correct and added that in its role, the PBIRC can make recommendations for training. She further clarified that after its investigation the NTSB did not make any recommendation for a reprimand, suspension, or revocation of Captain Rodrigues' commission. Mr. Woodring replied they did not, and explained that the NTSB can make recommendations but do not have any power of law behind them, but it does advise the Coast Guard that something needs to be looked at or that it may want to consider something.

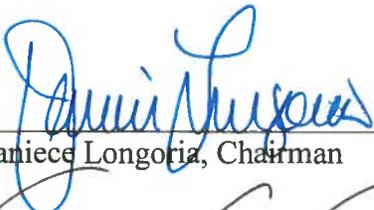
Chairman Longoria wanted to point out that the NTSB did not make any finding or criticism of Captain Rodrigues that was inconsistent with that of the PBIRC's recommendations. Mr. Woodring replied that was correct.

Hearing no more questions, the item was called to a vote.

Chairman Longoria, and Commissioners Branch, Corgey, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA F1 PASSED.

Having no items for executive session, at 10:43 a.m., Chairman Longoria adjourned the Pilot Board meeting.

The above is a correct copy of the Minutes of the April 26, 2016 meeting of the Pilot Board of the Port of Houston Authority.



Janiece Longoria, Chairman



Erik A. Eriksson, Assistant Secretary

F. PILOT MATTERS

Subject 1. Appoint Captain Mike Usher as Assistant Secretary of the Board of Pilot Commissioners for Harris County Ports.

Meeting Apr 26, 2016 - BOARD OF PILOT COMMISSIONERS FOR HARRIS COUNTY PORTS

Access Public

Type Action

Recommended Action The Board of Pilot Commissioners for Harris County Ports (the Pilot Board), at its April 26, 2016 meeting, appoint Captain Mike Usher as Assistant Secretary of the Board of Pilot Commissioners for Harris County Ports, 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:
Pilot Matters

Department:
Pilot Administration

Staff Contact:
Erik Eriksson

Background:
The position of Secretary of the Pilot Board is held by the Executive Director of the Port of Houston Authority. In the past, the Pilot Board has designated Assistant Secretaries to act on behalf of the Secretary as may be reasonable or necessary. Currently the Chief Legal Officer, Chief Operating Officer, and Chief Health, Safety, Security and Emergency Management Officer of the Port Authority are the Assistant Secretaries of the Pilot Board.

Staff Evaluation/Justification:
Legal Division staff recommends that the Pilot Board also appoint Captain Mike Usher, the Port Authority's Manager, Pilot Administration, as an Assistant Secretary of the Pilot Board. Captain Usher was appointed by the Pilot Board in 2010 to serve as Compliance Coordinator of the Pilot Board Investigation and Recommendation Committee; this additional appointment would similarly permit him to provide more efficient support to that committee as well as the Pilot Board Application Review Committee.

F. PILOT MATTERS

Subject **2. Consideration and possible action regarding the Pilot Board Investigation and Recommendation Committee's (PBIRC) proposed findings and recommendations regarding the M/V MONTE ALEGRE collision with the M/T CHEMBULK HOUSTON on March 5, 2015 in the Houston Ship Channel.**

Meeting Apr 26, 2016 - BOARD OF PILOT COMMISSIONERS FOR HARRIS COUNTY PORTS

Access Public

Type Action

Recommended Action The Board of Pilot Commissioners for Harris County Ports (the Pilot Board), at its April 26, 2016 meeting, consider and possibly take action regarding the Pilot Board Investigation and Recommendation Committee's proposed findings and recommendations regarding the M/V MONTE ALEGRE collision with the M/T CHEMBULK HOUSTON on March 5, 2015 in the Houston Ship Channel, 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:
Pilot Matters

Department:
Pilot Administration

Staff Contact:
Erik Eriksson

Background:
The Secretary of the Pilot Board may refer reports of marine casualties and complaints alleging violations of the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel and Galveston Bar to the PBIRC for investigation, hearing, and recommendation to the Pilot Board.

Staff Evaluation/Justification:
The PBIRC held a formal hearing on January 20, 2016 to receive testimony and consider the facts in the matter of the M/V MONTE ALEGRE collision with the M/T CHEMBULK HOUSTON on March 5, 2015, in the Houston Ship Channel, and propose findings and recommendations regarding the matter.

The following PBIRC members were in attendance:

- Captain Marcus Woodring (PBIRC Chairman)
- Captain Robert Shearon (Presiding Officer, Houston Pilots Association)
- Captain Michael Curtiss (Houston Pilots Association)
- Captain Sean Arbogast (Houston Pilots Association)
- Captain Richard Ford (United States Coast Guard, retired)
- Captain David Foret (Port of Houston Maritime Industry)
- Captain Richard Russell (Port of Houston Maritime Industry)
- Paul Caruselle (Port of Houston Maritime Industry)
- Tom Marian (Port of Houston Maritime Industry)
- Mark Bottiglieri (United States Coast Guard non-voting member)

Captain Mike Usher, Compliance Coordinator for the PBIRC, presented incident materials he collected regarding the collision; Captain Travis Parker, Captain David Rodrigues, and Captain Paul Bartholmey (expert witness on behalf of Captain Rodrigues), gave testimony regarding the circumstances.

Erik Eriksson attended the hearing as counsel representing the Pilot Board; Jim Brown attended as

counsel representing Captain Parker, and Keith Letourneau attended as counsel representing Captain Rodrigues. Finally, Paul Lonardo, United States Coast Guard (USCG) Sector Houston-Galveston and Larry Bowling, National Transportation Safety Board (NTSB), also attended the hearing.

Captain Parker Following its deliberations, by a vote of 6-3 the PBIRC proposes the following to the Pilot Board:

a. **Proposed Findings** There was no actionable misconduct by Captain Parker in contributing to the collision between the CHEMBULK HOUSTON and MONTE ALEGRE.

b. **Proposed Recommendations**

- i. Take no action (with exception as follows), and close to file;
- ii. Captain Parker is directed to validate all his planning assumptions, i.e. the intended actions of other vessels; and
- iii. Captain Parker attends both Manned Model Ship Handling and Emergency Ship Handling courses as soon as scheduling permits.

Captain Rodrigues Following its deliberations, by a vote of 9-0 the PBIRC proposes the following to the Pilot Board:

a. **Proposed Findings** Captain Rodrigues made an error in judgment by keeping the speed of the MONTE ALEGRE at half ahead for more than necessary to "check her up," thereby adversely affecting the overtaking CHEMBULK HOUSTON.

b. **Proposed Recommendations**

- i. Issue a Letter of Caution to Captain Rodrigues cautioning him with regard to his actions;
- ii. To the Houston Pilots – Review the duties and responsibilities of the "#1 Pilot on the Bar;" and
- iii. Captain Rodrigues attends both Manned Model Ship Handling and Emergency Ship Handling courses as soon as scheduling permits.

Thereafter on March 10, 2016, the PBIRC received a Request for Reconsideration from Mr. Letourneau, on behalf of Pilot Affected Captain Rodrigues, regarding the PBIRC's proposed findings and recommendations in this matter.

On March 15, 2016, a majority of the PBIRC members that participated in the PBIRC hearing met determine whether to grant or deny the Request for Reconsideration. The PBIRC found no new evidence or information that would support a decision to reconsider its findings and recommendations, and voted unanimously to deny the Request for Reconsideration.

Subsequently Mr. Letourneau, on behalf of Captain Rodrigues, made and then withdrew a request that the Pilot Board hear the matter, pursuant to Texas Transportation Code §66.043.

Separately, staff notes that the NTSB conducted a joint marine casualty investigation with USCG Marine Safety Unit Texas City on the collision of the CHEMBULK HOUSTON and MONTE ALEGRE, and that the NTSB has completed this investigation and filed a safety investigation report.

The NTSB report along with all materials associated with this matter have been provided to the Pilot Board.