

Transition Committee of the

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

**Houston, Texas
February 28, 2020**

A public meeting of the Transition Committee of the Board of Pilot Commissioners for Harris County Ports (the "Transition Committee") was convened on February 28, 2020 at 10:00 a.m., at the offices of the Houston Pilots, 203 Deerwood Glen Dr., Deer Park, Texas 77536. The following Commissioners, staff, and counsel were present:

Frances Castañeda Dyess, Commissioner
Roland Garcia, Commissioner
Brenda Hellyer, Commissioner
Captain Reginald McKamie, Commissioner
Captain M. Tyler Gavis, Secretary and Compliance Coordinator
Erik Eriksson, General Counsel
Captain Marcus Woodring, Chairman, Pilot Board Investigation and Recommendation Committee (PBIRC) and Application Review Committee (ARC)

Captain Gavis convened the meeting of the Transition Committee.

Mr. Eriksson suggested that the first order of business was to move to Item D-1 on the agenda, "Possible action regarding committee administrative matters, including election of committee chair and meeting and location dates." Mr. Eriksson asked for a motion to appoint a chair for the Transition Committee. Commissioner McKamie moved to name Commissioner Garcia as Committee Chairman, seconded by Commissioner Hellyer. Commissioners Dyess, Hellyer, and McKamie voted Aye. Nays none. Commissioner Garcia recused. MOTION APPROVED.

Mr. Eriksson then asked Chairman Garcia to proceed with the meeting. Chairman Garcia announced that the meeting had been called to order and asked if there were any public appearances; there were none. He recognized and welcomed Tom Kornegay, noting he was a dear friend to everyone as well as former leader of the Port Authority.

Chairman Garcia moved to staff reports.

Chairman Garcia recognized Marcus Woodring, ARC and PBIRC Chairman, to provide an overview of the PBIRC.

Captain Woodring recalled an explanation from the last meeting regarding the process conducted when an incident occurs, noting that Captain Gavis first gathers information to be taken to the PBIRC Subcommittee for review to determine whether a full hearing was required. He added that currently there were six cases and a recent seventh

case pending, and that a date would be scheduled for the five members of the subcommittee to review them and determine whether any of the incidents required a full hearing. Captain Woodring added the usual order of magnitude has been that one out of seven or eight cases requires a full hearing, but since he did not think there were any “hot” incidents in the group, there might not be any going to a full hearing. There were no other pending action items with the PBIRC.

Captain Gavis advised that he and Captain Woodring also wanted to look ahead on the ARC side, and advised that the next pilot commission renewals (a top priority) included three in August, followed by one in September, and two in October. His recommended timeline would be to bring the commission renewals before the Pilot Board in May or June, adding that he always liked to stay ahead of the curve, to ensure that pilots were properly commissioned and working.

In response to Chairman Garcia’s inquiry, Captain Gavis advised there were two first-time original Branch Pilots and four Branch Pilot renewals which would all ultimately need Pilot Board approval. Chairman Garcia commented on how important a couple of the board members thought diversity was, addressed the lack of diversity in pilots, and inquired if there was some improvement with the two new Branch Pilots or at least with those in the pipeline. Captain Gavis responded that the Pilot Board continued to have a strong Pilot Pool with new applications that continued to come in and noted that he would be happy to provide the Pilot Board with an update on the diversity numbers.

Chairman Garcia asked the members of the committee if they thought an update on diversity numbers would be important to know; there was a unanimous agreement. He commented that he would also like to see gender and ethnicity backgrounds and noted sometimes good people may have to be recruited, as it may not be organically happening on its own and he wanted to see progress. Captain Gavis responded in agreement.

Commissioner Dyess commented that at a recent Port Authority event she saw a student from the Maritime Program at San Jacinto College who was currently working at the Port Authority, as well as working her way up to become a pilot, and commented that the pipeline was starting though there was some catching up to do. Chairman Garcia responded that was good to hear. Commissioner Hellyer also commented that the student was on her way to becoming a captain and was pretty excited about the opportunity to speak with Captain Robert Thompson, Presiding Officer, Houston Pilots.

Commissioner Dyess also raised a concern about an incident in Georgia during which a vessel carrying cars tipped over. In response to Commissioner Dyess’s inquiry, Captain Woodring advised that he was aware of the situation and shared that when people asked him what kept him up at night when he was Captain of the Port, his response was

that it was the many different ships that come and go, carrying different chemicals and cargo, from the busiest port in the country, and it was not a matter of what would happen but when. Captain Woodring also shared another response to that question: he knew he had all of the best responders in the nation at the Port of Houston, including those headquartered at the Port Authority with whom he worked and with whom he had gone through issues, and this helped him sleep at night. If a similar situation occurred in Houston as did in Georgia, there were people who would respond appropriately.

Captain Gavis added there was a serious incident that occurred in May that he was involved in, and expressed the importance of remaining engaged in this process, adding that these were also matters that the National Transportation Safety Board (NTSB) reviewed. He added that he received positive feedback on how the Port Authority and Pilot Board had handled these situations and added how important he thought it was to remain in tune.

Chairman Garcia moved to the second part of Item D-1 to discuss meeting locations and dates. Commissioner McKamie commented that the Pilot Board should be engaged with the maritime community and suggested that meetings should not be held at the Pilots' offices all of the time, as that may become a conflict at some point. He suggested drafting a Memorandum of Understanding (MOU) for a meeting location with either San Jacinto College, the University of Houston, or Texas Southern University, noting that the most convenient location would be San Jacinto College. He also added that he thought it would be good for the maritime community to see the Pilot Board meet at San Jacinto College.

In response to Commissioner McKamie's suggestion, Commissioner Hellyer asked if the maritime campus or central campus would be more suitable. Commissioner McKamie advised that he would prefer a location where a board meeting could be held based on the terms of the agreement as to how often the committee would meet, and added that he was just floating the idea and would rely on Commissioner Hellyer to advise what was best.

Chairman Garcia advised there were two concepts to consider: a meeting location such as the Pilots' offices, and an office location where files, records, computers, and whatever was needed could be housed. Commissioner McKamie clarified that he was suggesting more of a board meeting location and noted if a smaller dedicated office space was needed, a rental space should be considered. He also suggested rotating meetings at different school locations, adding that Texas Southern University had a maritime program, which could be a consideration. Commissioner McKamie added that a formal agreement should be in place that stated the location would be available when the Pilot Board was scheduled to meet and not anything ahead of schedule.

In response to Commissioner Dyess's inquiry, Mr. Eriksson advised that someone could argue a conflict of interest if the meetings were to continue to be held at the Pilots offices, noting it was a benefit provided by the Pilots. He also advised that he agreed with formalizing these arrangements, and that the issue was more the perception of the circumstances: while the people involved in a transaction or relationship may not see that as a conflict or believe it would affect their judgement, the outside world may have a different view.

He reiterated that it would be good to set the meetings up on a more formal basis, adding that it was also in the Pilots' best interest that there be no claim of a conflict of interest. While to date the Pilot Board had not taken any action vis a vis the pilots, and so there was no formal basis on which to find a conflict, if a claim against the pilots occurred at some point in the future, a determination would have to be made whether the matter was impacted by the circumstance of meetings conducted in their offices.

Commissioner McKamie commented that a part of the Pilot Board's duties was to oversee the safety of the port by reviewing Pilot incidents, and the perception of being housed in the Pilots' offices might reflect some kind of relationship that the Pilot Board should not have. Mr. Eriksson added that ARC and PBIRC meetings were often where decisions were made that the Pilot Board relied on, and so a venue for those committees should be included in the mix as well when determining meeting locations. He remarked that the committee meetings were currently held at the Port Authority's office, where they could continue to be held through the end of term of the Interlocal Agreement.

Commissioner Hellyer inquired whether the location for meetings could be tied to the appointment of an administrator and further commented that she was totally open to having an arrangement with San Jacinto College, at whichever location is the best. Mr. Eriksson concurred regarding the administrator, noting that the big driver was determining what entity or person would be taking on the managerial and administrative roles. He recalled that at the last meeting he mentioned there were organizations that performed similar duties for civic organizations and municipal utility districts (MUDS) who could also handle this business. He added that a distinction should be made between meetings that had to be public and those that were not open to the public.

Captain Woodring also suggested renting an office space, and commented that the driver of all this would be daily administrative duties such as answering the telephone, providing a mailing address, handling banking, drafting and posting agendas, managing the website, finding meeting locations, sending out calendar reminders, and working with legal counsel. He further noted that the administrative piece was the "go-to" for many of the issues that had been discussed, and added that on one side, a legal counsel would be

working with the administrator and Pilot Board at an hourly cost, and on the other, someone could conduct investigations.

In response to Chairman Garcia's inquiry, Mr. Eriksson advised there would have to be some permanent space due to the sensitivity of some files and the level of confidentiality they would require, such as the medical records and applications the ARC reviewed. He noted the space would not need to have everyday access and even could be a storage space to which the administrator would have access when needed. Commissioner McKamie suggested that a dedicated space would be needed for the pilot commissioners, as well as someone to perform the administrative duties, which should also be factored into the budget. Chairman Garcia commented that the idea lent itself to using the proposed dedicated space instead of scheduling multiple meetings at different locations. Mr. Eriksson commented that the dedicated space could be used if it had the capacity and reiterated that the Pilot Board meeting would be open to the community.

Commissioner McKamie raised concerns about having an empty dedicated space when there was a need for large meetings, i.e. in the event of an incident that could possibly include attendance by representatives of the U.S. Coast Guard (USCG) and NTSB. He noted if there was an MOU in place with either San Jacinto College or Texas Southern University which provided large spaces, meetings could be held at those venues and the business of the commissioners could be held at a smaller location.

Mr. Eriksson raised a concern about maintaining records properly, a part of the administrator's duties, and Captain Gavis added that he often received calls or visits from potential applicants who inquired about meeting requirements and expressed his thought that an office space would be beneficial for the purpose of handling that type of business.

In response to Chairman Garcia's inquiry, Captain Woodring advised that handling pilot matters was Captain Gavis' primary duty, and remarking that discussions regarding reimbursing the Port Authority for Captain Gavis' time did not necessarily satisfy the spirit of separating the Pilot Board from the Port Authority and was not the preferred option from the point of view of the senior staff of the Port Authority. Captain Woodring concluded that either Captain Gavis would come under the Pilot Board's purview, which would provide office space and cover his salary and benefits, or someone other than Captain Gavis would fill that role.

Mr. Eriksson remarked that while the two roles of administrator and investigator were now combined, it did not have to be that way. He advised that some investigatory efforts were oriented toward researching the bona fides of applicants, and this job could be conducted by the administrator, adding that those duties used to be separated. To Captain Woodring's point, an investigator could be hired to step up when an incident occurred,

whereas an administrator would perform tasks such as answering telephone calls, managing applications, and posting meetings.

In response to Chairman Garcia's comment that the administrator would not be occupied full time, Captain Gavis advised that he currently conducted both roles.

Mr. Eriksson suggested that the Pilot Board consider a request for proposals (RFP) process to solicit proposals from the community to perform the administrative and investigatory functions, adding that the Port Authority, in the role of assisting the Pilot Board, could offer to help draft the RFP. He also advised that the Pilot Board could decide to either pick one person for both roles, or make it a divisible solicitation and leave that open to decide. In addition, once proposals were received, a clearer idea of potential costs could be arrived at. He provided as an example that the Greater Houston Port Bureau (Port Bureau) was currently performing similar tasks for the Houston Ship Channel Security District (HSCSD), and as he mentioned earlier, other entities could also perform these tasks.

Commissioner Hellyer proposed that the RFP process be conducted, and criteria set up to determine what other specific services around the administrative duties were needed. Mr. Eriksson pointed out that the memo he previously provided to the Pilot Board included sections on "secretarial" and administrative duties as well as the separate legal duties. In response to Chairman Garcia's inquiry, Mr. Eriksson advised that the RFP could permit proposals on all three "sections," which would allow the most flexibility. For example, it might be cheaper for a company to perform administrative services, but standalone people could include an investigator and an administrator. Mr. Eriksson reiterated that third parties had conducted the investigatory duties in the past, including Commissioner McKamie, who held that position for many years. He added that the investigator needed to have a background as a mariner, while the administrator did not.

Captain Gavis commented however that he thought it was good on the applicant side to understand sea time requirements, as it can become complex, adding that at some point he would present a flow chart on that matter to the Pilot Board. He further discussed the different licensing criteria required to be met and advised they were always changing, which was why it would be good to have someone who understood those differences as well as how the USCG operated in general. He noted that ultimately he was working in parallel with the USCG to ensure pilots were complying with these requirements.

Following Chairman Garcia's comment, Captain Woodring commented that the administrative function in the middle would also keep track of legal time and hours as well as investigator time and hours, which would both revolve around the hub in the middle. He

further suggested that the solicitations for expertise in legal and investigative matters be separate.

Commissioner Hellyer raised concerns about employees and the competition with packages such as employee benefits, and noted there would be more flexibility and stability if contracts managed those components.

Captain Woodring recalled that approximately ten years ago the HSCSD sought an administrator, who was paid monthly based on hours. The administrator hired people who were experts in what the HSCSD needed, including a web presence, telephone number, and mailing address, as well as the ability to create agendas, draft minutes, receive applications, and conduct bank business. The experts would send monthly invoices to the HSCSD, that included hours, to receive payment for their services.

Mr. Eriksson commented that hiring the administrator and experts will in turn drive the funding for these services, which was the other important consideration in this matter. He noted that it would be difficult to determine how the Pilot Board would pay for these services before there was a clear understanding of the range of costs, noting a minimum range of between \$200,000 to \$300,000 for the services that employees of the Port Authority currently provided, including Captain Woodring's time and his time.

Mr. Eriksson also agreed with Captain Woodring's previous advice to consider overestimating costs in order to build up a reserve, and reiterated that the first step was to prepare an RFP and look at the responses, to determine costs and set up the funding mechanism.

In response to Commissioner Hellyer, Mr. Eriksson agreed to take the lead with the RFP process and present it to the Pilot Board for review. Following further discussion, Chairman Garcia called for a motion to have the Port Authority General Counsel prepare an RFP for the administrative/secretarial services. Commissioner Hellyer moved for approval, seconded by Commissioner McKamie. MOTION APPROVED.

In response to Commissioner Garcia's inquiry, Mr. Eriksson confirmed that minutes were being recorded by his colleague, Latitia Jones. He also responded to Commissioner Hellyer by noting outreach for the RFP would be difficult and recognized Niels Aalund with the West Gulf Maritime Association (WGMA), who was responsible for publicizing the current meeting. Mr. Eriksson advised that the WGMA could provide one way to publicize the RFP and could offer its assistance as a public service, and while there was advertising required in the *Houston Chronicle*, the WGMA would provide the best outreach he could think of.

Following Chairman Garcia's comment, discussion ensued surrounding a timeline to post and solicit responses from the RFP. It was determined that an evaluation of the RFPs would be conducted at the April committee meeting and a recommendation made at the next Pilot Board meeting. In response to Commissioner Hellyer's inquiry, Mr. Eriksson confirmed that an administrator was expected to be in place by the end of June assuming that the contract was to be extended at the next meeting.

Commissioner Hellyer also inquired about waiting until that agenda was set, to make any formal decisions on meeting locations and dates. Commissioner McKamie commented that the Pilot Board could be notified of available spaces that were recommended for use at San Jacinto College and added that he could also contact the dean at Texas Southern University to see if it would be interested in offering a space at its Maritime Studies program to use. He noted that while he thinks that the primary location could be San Jacinto College, meetings could be rotated to allow other schools to be in the mix.

Commissioner McKamie asked Commissioner Hellyer to submit a proposal to the Pilot Board to permit it to use a large designated space and suggested that a few of the board members should go and look at the spaces. Chairman Garcia suggested having the next Transition Committee meeting in the proposed space to get a feel of how it would work for the future.

Mr. Eriksson commented that a new counsel should be under a separate agreement, given that the audience was fairly specific. Chairman Garcia advised that a Request for Qualifications (RFQ) should be prepared that included the various tasks as well as hourly rates or flat fees. Mr. Eriksson concurred and added that the legal duties were not demanding, revolving mostly around the agenda and the minute preparation, i.e. more "corporate secretarial" duties. He advised however that there was a fairly involved statutory scheme for postings to comply with, if and when there was a rate hearing.

Commissioner McKamie added that the counsel should be someone that had corporate experience as well as maritime experience, adding that he had spoken to several firms, though some had advised that they could not participate as it would be a conflict if they wanted to conduct Port Authority or pilot business. Mr. Eriksson agreed that it may be a difficult decision, adding that there were other firms that defend vessel owners, which might also be a conflict.

Further discussion ensued and Captain Gavis added that Public Information Requests (PIRs) were another occasional big item. He advised that following some of the major incidents, civil attorneys reach out for Pilot Board records, and that it was a good idea to have some understanding of the nature of all of the requested documents. Mr.

Eriksson added that over the last few years PIR requests had also been one of the biggest outside attorney expenses, as in-house counsel did not necessarily handle all of the requests.

Captain Woodring commented that financial situations may arise since, as a separate board, different banks, places to invest, and required trainings would be needed on the legal and administrator side. Mr. Eriksson added that it would be more on the administrative side although there might be a legal aspect to them as well. Following Captain Woodring's comment, Mr. Eriksson said he would come up with a list of matters that were not included in the memo.

Chairman Garcia commented that the general counsel should be at all of the Pilot Board meetings to ensure compliance and Mr. Eriksson noted that would be up to the Pilot Board. Commissioner McKamie commented that he thought counsel should be at most meetings but not all, as some meetings may only have commission renewals on the agenda. Following further discussion, Chairman Garcia called for a motion to authorize the preparation of an RFQ for legal services including tasks, rates, and fees. Commissioner McKamie moved for approval seconded by Commissioner Dyees. Commissioners Garcia, Dyess, Hellyer, and McKamie voted Aye. Nays none. MOTION APPROVED.

Chairman Garcia also called for a motion to authorize preparation of the MOU for a meeting space and noted that the idea was to also solicit arrangements for meetings commencing with the April meeting as a test at San Jacinto College. Commissioner McKamie moved for approval, seconded by Commissioner Dyess. Commissioner Hellyer recused. Commissioners Garcia, Dyess, and McKamie voted Aye. Nays none. MOTION APPROVED.

Following Mr. Eriksson's inquiry, Chairman Garcia advised that the next Transition Committee meeting would be April 24, 2020 at 10:00 a.m., at San Jacinto College. Further discussion ensued surrounding location, address, and the MOU and Commissioner Hellyer concluded that a one-page agreement would suffice for Mr. Eriksson's review and approval. Chairman Garcia suggested that Mr. Eriksson circulate the agreement to the Pilot Board as an official agreement, and Mr. Eriksson suggested that he would add it to the meeting agenda for approval on March 26th and added he would send out a meeting planner within the following week.

Chairman Garcia moved on to discuss banking arrangements. Mr. Eriksson advised that banking should be among the administrator's duties, noting that it would set up a bank account and request Pilot Board approval of the banking arrangements. Mr. Eriksson also added that an investment policy would need to be in place, which would most likely be "boiler plate," as the best option for the board would likely be to deposit the funds in an insured account.

Chairman Garcia reiterated that administration would include housing electronic records as well as paper records, which would call for a secure server. He advised of cyber security exposure and that such measures must be up to date: vendors had to be up to speed on their proposals for housing electronic records, internet access, and website maintenance. Mr. Eriksson advised a vendor for the Pilot Board website was currently in place, and he assumed that stand-alone contract could be transferred. He further noted that the annual cost was not significant; Captain Gavis added that it was up for renewal in March.

Chairman Garcia moved on to discuss budget matters and Commissioner McKamie suggested that the discussion be set aside until sufficient information on costs was gathered. Chairman Garcia responded that while the size of the budget was unknown, the idea was to determine how the budget would be funded. Several questions were raised to be included in the discussion, such as whether assessments would be paid by the pilots, fees charged on the movement of the vessels, or funding coming from the Port Authority's budget.

In response to Commissioner Dyess's inquiry, Mr. Eriksson advised that a staff recommendation had not been made and noted that this was most controversial aspect of the topics that day. Chairman Garcia raised concerns that it was hard not knowing how the decision would impact the pilots or ship commerce, and so he wanted to hear the pilots' and the ship owners' thoughts on the matter. Commissioner McKamie added that the port needed to remain competitive, and wondered how much funding each option would generate and the continuity of the funding stream, explaining that with a vessel fee if moves decreased it would affect what the Pilot Board received, while a fee per pilot would be more stable.

Mr. Eriksson commented that the latter was a matter of arithmetic, noting there were approximately 100 pilots and further deferred to Captain Thompson, who added there were approximately 18,900 total moves last year. Mr. Eriksson explained that the \$2,000 a year per pilot estimate was arrived at assuming 100 pilots and \$200,000 a year was needed.

In response to Commissioner McKamie's inquiry, Mr. Eriksson advised that he had also heard that a suggested fee per move could be \$12, adding that research could be conducted as to how other pilot boards handled the matter. Chairman Garcia encouraged Mr. Eriksson to collect this data as it would help to determine best practices, and this was a decision area that could subject the Pilot Board to criticism. He also reiterated that he wanted to hear from the Pilots and stakeholders regarding their thoughts on how reasonable these situations seemed, and Commissioner McKamie requested that the Presiding Officer

and a representative from WGMA attend the next meeting to provide their thoughts on the matter.

Mr. Eriksson advised that rate hearings were a good model to follow in deciding on this, to ensure the maritime public was engaged. He explained, for example, that such hearings required 10 days rather than 72 hours advance notice, to allow time to prepare proposals and testimony, to be solicited in a public venue. In response to Commissioner McKamie's question, Mr. Eriksson confirmed that solicitations could occur at the next meeting on March 26.

Mr. Eriksson further noted that the Pilot Board did not have to make a decision at that time as there was no statutory mandate to do so, but if the Pilot Board ultimately decided there would be a per-move fee (versus a direct assessment by the Pilot Board), the pilot rate hearing process would *have* to be followed, adding that he believed there was nothing in the statute that dictated how the per-move fee be imposed.

Chairman Garcia recognized Niels Aalund with the WGMA and asked that he share some information on the topic. Mr. Aalund introduced himself and Shareen Larmond, President, WGMA. He remarked that he believed that transparency was important and suggested a budget was needed when looking into office space for the administrator and legal counsel. He reiterated the importance of transparency if the industry was going to "sign off" and to avoid criticism, and raised several questions for consideration, including what the fee would pay for, why it was needed, and what the formula would be.

Mr. Eriksson commented that those were good points and suggested that the hearing notice could be drafted to reflect the same bullet points as the RFP. Mr. Aalund encouraged the Pilot Board to think about how things were progressing as far as costs and how it would be covered.

Commissioner Hellyer commented on the magnitude of the budget and how it would be calculated, noting the duress of not knowing what the budget needed to be. Chairman Garcia recalled the need to conduct research on how other Pilot Boards handled the situation, as there might be some other interesting models in other jurisdictions that could help guide the Pilot Board in making this decision.

Following Commissioner Hellyer's inquiry, Mr. Eriksson advised that he did not think the statute contemplated an annual assessment process, but he would check; however,

there was at least one other Texas pilot statute that did authorize fees. He added that furnishing a service provided a general basis for government agencies to charge such fees.

In response to Commissioner McKamie's suggestion, Mr. Eriksson advised that assuming the Pilot Board extended the Interlocal Agreement at the end of March, costs would continue to be defrayed by the Port Authority until the end of June, covering the Pilot Board for the first six months.

Following discussion, Commissioner McKamie and Chairman Garcia raised concerns regarding the April-June timeframe to complete that business before the Pilot Board would be on its own, as they felt the timeframe was ambitious. Chairman Garcia commented that he would like for all business to be taken care of properly and that he believed it should be completed by year-end.

Mr. Eriksson advised that since Chairman Campo was on both boards, he could set the agenda of the Port Commission, noting there were six other Port Commissioners who would have to vote on the matter. He suggested the decision made by the Transition Committee could be discussed at the March Pilot Board meeting and then brought to the Port Commission.

Chairman Garcia suggested bringing to the full Pilot Board at the next meeting that the Transition Committee was making progress by preparing an RFP and that the committee was on schedule to have a plan in place by year-end, and asked Mr. Eriksson to discuss that with Chairman Campo.

Mr. Eriksson moved on to advise that the Texas Senate Transportation Committee had conducted a hearing the past Thursday and followed up on the progress regarding the Pilot Board, during which Port Commissioner Wendy Montoya Cloonan spoke on behalf of the Port Authority. He reported that she had advised the Senate that things were moving ahead, and after listening to the hearing he believed the legislature seemed to be fine with how things were proceeding.

In response to Commissioner Hellyer's inquiry, Captain Woodring advised that he followed up after three weeks on the status of the two pending Pilot Board appointments, and had also put in a call to the Governor's Office; he was informed the office was busy with appointments and these would have to await their turn. Mr. Eriksson added that *Guidry News* reported daily on appointments and that he was monitoring it for updates. Captain Gavis reported that two or three appointments had been made a month or so ago to

the Sabine Pilot Board, but he had not heard anything about Houston. Mr. Eriksson noted that luckily the Pilot Board could still act without the two pending appointments as the remaining commissioner group made up a quorum.

In addition to gathering information on how other Pilot Boards structured their fee processes, Commissioner Hellyer requested that Mr. Eriksson run scenarios on what was needed based on a \$300,000 budget as opposed to what was captured on a \$200,000 budget.

Captain Gavis commented that the purviews of different Pilot Boards varied greatly, e.g. more movements and more accidents, as well as different workloads. Mr. Eriksson added there were not many states or jurisdictions that did as much as the Pilot Board did, and that its duties were not universally carried out across the country. He advised that the aim would be to look at organizations that had the same type of workload or numbers as the Pilot Board did. He added that most times these duties were a state responsibility, which allowed them to fall under the state's budget, which in turn determined how fees were funded.

In response to Chairman Garcia's inquiry, Mr. Eriksson advised that the Port Authority was not funded by the state, and there were two parts to its finances: one was the capital debt incurred for facility and ship channel construction, paid for by property taxes; the other was operating funds from facility use and real estate leasing.

Chairman Garcia began a brief discussion regarding the lack of funding language in the statute. He remarked that an additional sentence could have been added that required 1 percent of the Port Authority's funds to fund the Pilot Board, since the Port Authority had been funding it anyway, and asked Mr. Eriksson for his thoughts. Mr. Eriksson commented that he thought it would be an uphill task for the Port Commission to agree to that, although that did not mean it should not be discussed.

Chairman Garcia asked Mr. Kornegay to provide his thoughts. He advised that the committee had not addressed the "elephant in the room" which were the oil companies. While the oil companies did not pay anything for use of the channel, the oil companies had requested the split between the Port Authority and the Pilot Board, as they believed the Pilot Board was beholden to the Port Authority, as opposed to the other channel users.

Mr. Kornegay continued by inquiring how anything would change if the Port Authority continued funding the Pilot Board, and added that the whole reason the

newly appointed Pilot Board existed was because the oil companies determined there was collusion between the Pilot Board and the Port Authority.

Chairman Garcia commented that the two could be separately governed and expressed concern with accusations that the Pilot Board was corrupt.

Mr. Kornegay further asked how the Pilot Board would get the oil companies as financially involved as WGMA members and the container people, if they were not paying part of the fee. Further discussion ensued and Commissioner McKamie noted that if the oil companies did not have to pay for the Pilot Board through user fees, the box ships paying to use the container docks and the other ships the Port Authority charged were actually paying for the Pilot Board, versus the oil companies that created the new Pilot Board.

In response to Chairman Garcia's inquiry, Mr. Eriksson explained that the oil companies operate private wharves while the Port Authority operates public wharves.

Captain Woodring commented that he often has to explain at conferences that he works for the Port Authority, and that there were 150 terminals along the ship channel of which the Port Authority only owned or operated eight. He noted that someone had to perform some of the inherently governmental functions needed for the greater port, including overseeing the Houston Pilots, providing fireboat coverage, and acting as local sponsor for dredging. All of these fell under the governmental entity at the port, though this did not mean the Port Authority *was* the port. Captain Woodring further advised that the Port Authority was a business on the one hand that worked with containers and terminals, as well as rented property, and on the other hand noted there were very specific duties that someone had to be responsible for on behalf of the greater port, which included the Pilot Board. He concluded that the Port Authority had paid for the Pilot Board on behalf of the greater port and since it was now separated from the Pilot Board, funding of Pilot Board functions should no longer be the Port Authority's responsibility.

Mr. Kornegay suggested that a visitor from the container industry could provide a better explanation: Marius Scintee, Director of Operations, CMA CGM, noted that his company never asked for the separation and never thought there was a conflict of interest. He observed that the same people who asked for the separation were not paying any pilotage fees, as the pilotage fees for vessels handled at their terminals were paid by the vessel owners, including his company.

consisted of about 12 companies including Enterprise Products, Kinder Morgan, Targa, and Magellan, had proposed the deepening and widening user fee.

Commissioner Dyess inquired if there was a way to work with the oil companies if they were willing to pay for dredging and widening. Mr. Scintee commented that initially the oil companies were willing to pay for that, but based on what came out of the last Port Commission meeting, they were no longer willing to do so.

Commissioner McKamie commented that he did not think the Pilot Board should get into the politics of whether it was container ships or tankers that separated the board but rather look into an equitable funding source such as a user fee for the stakeholders that came in and out of the port.


Captain Thompson added that the Pilot Board's job was governing pilots while the pilots' job was moving ships, and Captain Woodring added that the Pilot Board did not have authority over the terminals as it did over the pilots, which provided it a fairly narrow lane.

Further discussion ensued including discussion on a line item in the Pilots' tariff, following Commissioner Hellyer's inquiry to Captain Thompson on the user fee from a pilot's perspective, and Mr. Eriksson noted that it was another idea to think about if a use fee was proposed. Commissioner Hellyer concluded that the fee issue had to be the top priority and suggested the topic as the focus of the March 26th meeting, including models and calculations as needed.

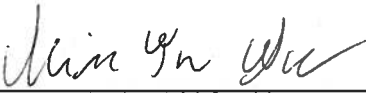
There were no Executive Session items.

At 11:58 a.m. Chairman Garcia adjourned the meeting.

The above is a correct copy of the Minutes of the February 28, 2020 meeting of the Transition Committee of the Pilot Commissioners for Harris County.



Roland Garcia, Chairman



M. Tyler Gavis, Secretary