

I N D E X

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

January 31, 2014

<i>Minute No.</i>	<i>Event/Action</i>
	<b>General</b>
	Chairman Longoria convened the meeting of the Board of Pilot Commissioners
	<b>Minutes</b>
(PB-2014-0131-01)	Approve the Minutes of the Board of Pilot Commissioners Meeting – December 10, 2013
	<b>Appearances</b>
	Chairman Longoria asked if anyone would like to address the Pilot Board; there was no response
	<b>Pilot Matters</b>
(PB-2014-0131-02)	Adoption of “Decision and Reasons For Decision on 2014 Harris County Pilot Rates”
(PB-2014-0131-03)	Appointment of Pilot Board Application Review Committee (ARC) Members
(PB-2014-0131-04)	Appointment of Pilot Board Investigation and Recommendation Committee (PBIRC) Members
(PB-2014-0131-05)	Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Richard D. Moore
(PB-2014-0131-06)	Recommendation for Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Robert C.S. Roberts
	Chairman Longoria asked if there were any items to consider in closed session; staff responded there were none
	Adjourn the meeting of the Board of Pilot Commissioners

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

**Houston, Texas  
January 31, 2014**

A public meeting of the Board of Pilot Commissioners for Harris County Ports (the "Pilot Board") was convened on January 31, 2014 at 10:41 a.m., at the Port of Houston Authority Executive Offices, Fourth Floor Boardroom, at 111 East Loop North, Houston, Texas 77029. The following Pilot 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  
Erik A. Eriksson, General Counsel and Assistant Secretary  
David H. Brown, Brown & Kornegay, LLP

Chairman Longoria called the meeting of the Pilot Board to order.

(PB-2014-0131-01) Chairman Longoria asked for a motion to approve the minutes of the Pilot Board's December 10, 2013 meeting. The motion was brought by Commissioner Fitzgerald, seconded by Commissioner Branch. 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; there was no response. There were also no staff reports.

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-2014-0131-02) RPBA E1 was presented, moved by Commissioner DonCarlos, seconded by Commissioner Mease. Chairman Longoria, and Commissioners Branch, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Commissioner Corgey abstained. Nays none. RPBA E1 PASSED.

Chairman Longoria encouraged everyone to read and assimilate the decision, stating she believed it captures the best interests of all. She also noted the reservation of the Pilot Board's rights contained in it.

(PB-2014-0131-03) RPBA E2 was presented, moved by Commissioner Mease, seconded by Commissioner Fitzgerald. Chairman Longoria, and Commissioners Branch, Corgy, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA E2 PASSED.

(PB-2014-0131-04) RPBA E3 was presented, moved by Commissioner Mease, seconded by Commissioner Fitzgerald. Chairman Longoria, and Commissioners Branch, Corgy, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA E3 PASSED.

(PB-2014-0131-05) RPBA E4 was presented, moved by Commissioner Fitzgerald, seconded by Commissioner Branch. Chairman Longoria, and Commissioners Branch, Corgy, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA E4 PASSED.

(PB-2014-0131-06) RPBA E5 was presented, moved by Commissioner Corgy, seconded by Commissioner Mease. Chairman Longoria, and Commissioners Branch, Corgy, DonCarlos, Fitzgerald, Kennedy, and Mease voted Aye. Nays none. RPBA E5 PASSED.

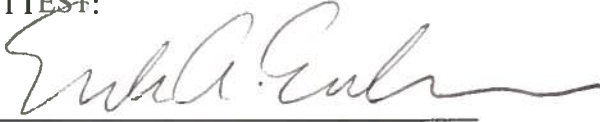
Chairman Longoria asked if there was a need for the Pilot Board to meet in executive session. Mr. Eriksson responded that he believed not.

At 10:45 a.m. Chairman Longoria adjourned the meeting of the Pilot Board.

The above is a correct copy of the Minutes of the January 31, 2014 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 Pilot Board Action

<b>Category:</b> Pilot Matters	<b>Agenda Date:</b> January 31, 2014	<b>Agenda Section:</b> E - 1
<b>From:</b> <b>Division:</b> Legal	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Action regarding "Decision and Reasons For Decision on 2014 Harris County Pilot Rates."		
<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 proposed (i) overall pilotage rate increases of 3.5%, 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, as set forth in the Application.</p> <p>On September 24, 2013, the Pilot Board set the regularly scheduled Pilot Board meeting of October 22, 2013 to commence its hearing on the Application. The hearing commenced on that date and was continued to November 19, 2013, at which interested parties spoke in connection with the Pilot Board's consideration of the Application. The hearing was continued again to December 10, 2013, and on that date, the Pilot Board further considered and indicated its intention to "provisionally" approve the Application, subject to further negotiation between the Pilots and interested parties, instructed its attorneys to prepare written findings as it directed them to do during the hearing and as required by law, and continued the hearing.</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. In addition, Sec. 66.065 of the Act requires that:</p> <p style="padding-left: 40px;">Not later than the 10th day after the date of the completion of a hearing on an application for a change in pilotage rates, the board shall issue a written decision that:</p> <ol style="list-style-type: none"> <li>(1) grants or denies the application in whole or in part;</li> <li>(2) states the reasons for the decision; and</li> <li>(3) states each new pilotage rate.</li> </ol> <p>Staff anticipates that on January 31, 2014 the Pilot Board will reconvene its hearing to further consider the Pilot's Application, and may take action on the Application as provided by the Transportation Code, as more particularly set forth in attached "Decision and Reasons For Decision on 2014 Harris County Pilot Rates."</p>		

**Full Recommendation:**

The Pilot Board of Commissioners, at its January 31, 2014 meeting, consider and take possible action regarding "Decision and Reasons For Decision on 2014 Harris County Pilot Rates," 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.

## **II. Decision**

A reasonable and just disposition of the Pilot's Application, supported by substantial evidence, follows:

1. The Pilots' Application is hereby provisionally granted, to take effect from January 1, 2014, such that Pilotage rates for Harris County ports are increased as reflected by the Application and the schedule attached to the Application.

2. The amount of the increase in pilot rates collected after January 1, 2014, and an accounting sufficient to identify the parties paying such amounts, shall be periodically remitted by the Pilots to the Secretary of the Board, who shall hold the increase until such time as the Pilots and the West Gulf Maritime Association ("WGMA") have reached agreement on Harris County pilotage rates for 2014, and reasonable and necessary revisions to the Pilots' Navigation Safety Guidelines<sup>2</sup>, and any related revisions to this Board's Rules and Regulations. If agreement is reached, the Secretary shall disburse such funds to the Pilots. If no such agreement has been reached by the close of business on March 3, 2014, the Board shall take further action to determine appropriate rates, guidelines, and rules and regulations as necessary to serve the best interests of stakeholders of the Port of Houston, considering the factors stated by Section 66.064.

3. In the event that the Pilots and the WGMA do not reach agreement by March 3, 2014, the Board requests that the Pilots and the WGMA inform the Board in writing, and in detail, of the points on which agreement was reached and the specific issues on which they remain in disagreement.

4. Future financial reports submitted by the Pilots as required by Section 66.063 shall be supported by audited financials for the three calendar years prior to the year in which the application is made and shall be approved by a certified public accountant.

## **III. Reasons for Decision**

5. Harris County pilotage rates impact all seagoing cargo and passenger vessels calling at all marine terminal facilities in the Port of Houston, and not just vessels calling on Port of Houston Authority ("Port Authority") terminals. The Port of Houston includes multiple private marine terminals, while cargo crossing docks owned or operated by the Port Authority comprises less than 15% of the total tonnage of the Port of Houston.

6. The WGMA is a non-profit association having over 160 members, which include steamship owners, operators, and agents, as well as stevedoring terminal companies located in all Texas ports. Of the parties opposing the Application, the WGMA submitted the most detailed comments. WGMA members include interests that submitted their own, separate comments on the Application.

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<sup>2</sup> <http://www.houston-pilots.com/documents/pdf/NavigationSafetyGuidelines.pdf>

7. In reaching its decision as to reasonable and just pilotage rates, the Board has considered the factors stated in Section 66.064 of Chapter 66 as well as the issues and arguments presented by the Pilots and by opponents of the Pilots' Application.

8. The submissions of the Pilots address all of the factors stated by Section 66.064.

9. The factors stated by Section 66.064 are interrelated. Economic factors, safe navigation practices, efficiency of pilot service, as well as the need to maximize the utility of the Houston Ship Channel ("HSC") for the industries that it serves, pose interrelated issues.

10. The fourth factor listed by Section 66.064 – "the public interest in maintaining safe, efficient, and reliable pilot services" – encompasses consideration of safe navigation in the HSC and the efficacy of pilotage service to industry and business.

11. Safe navigation is vital not only for the protection of persons and property but also advances the goal of twenty-four hour, seven-day-a-week availability of the HSC for vessel transit.

12. Efficient and reliable pilot services and optimal utilization of the HSC are vital to industry in Harris County and to the local, regional, and national economies.

13. All parties that commented on the goals of safety and efficiency suggest that these goals are being met by the Pilots.

14. The HSC is a 52-mile long, complex channel, with a lengthy transit time of approximately 4 to 8 hours, depending on the destination terminal.

15. Piloting large, wide-body tankers and Panamax container vessels in the HSC is more difficult, and requires greater training and skill, than piloting smaller seagoing cargo vessels.

16. No party has urged that the Pilots' current level of compensation is excessive given the task they must perform.

17. The Board takes notice that at its Pilot rate application hearing of November 15, 2011, testimony was given that cargo interests, including those represented by the WGMA, agreed that the Pilots merited increased rates, including a 3.5% increase to be effective January 1, 2014.

18. The large majority of HSC transits are made by vessels carrying cargo other than containers. Non-container-cargo interests, including representatives of the petro-chemical industry, have not opposed the Pilots' Application.

19. The economic factors impacting the amount of pilotage rates broadly include all aspects of the shipping and related industries in Harris County and all cargo categories.

20. The competitiveness of the Port of Houston is primarily an issue of the total cost of calling on the Port's terminals, and not of a single item of expense, such as the cost of pilotage.

21. In the past, the Pilots and representatives of the shipping industry have reached agreement on pilotage rates and on other details of pilot services in the Port of Houston. This past practice of agreement between the Pilots and industry on pilotage rates and operational issues, subject to the Board's oversight, serves the objective of reasonable and just pilotage rates and of safe and efficient pilot services.

22. The Board makes no finding on the question of whether two pilots, as are used for piloting wide-body tanker vessels, are required as a matter of safety for wide-body container vessels. The Board notes that the guidelines had required two pilots, but that in an effort to provide a more cost-effective approach for wide-body container vessels, the Pilots revised the guidelines to require one pilot at 1.5 times the customary rate, rather than requiring two pilots, each at the customary rate. The container shipping industry has complained that a charge of 1.5 for one pilot is inappropriate. This is one of the issues that should be discussed between the Pilots and representatives of the container shipping industry for resolution. If this issue is not resolved, the Pilot Board reserves the right to make a determination on the appropriate resolution of this matter, along with the requested rate increase.

23. The Board further reserves the right to order a resolution of the stated issues for a term longer than one year.

Dated January 31, 2014



## Request for Pilot Board Action

<b>Category:</b> Pilot Matters	<b>Agenda Date:</b> January 31, 2014	<b>Agenda Section:</b> E - 2
<b>From:</b> <b>Division:</b> Legal <b>Branch:</b> Pilot Administration	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Appointment of Pilot Board Application Review Committee (ARC) Members.		
<b>Background:</b> Prior authorizing Pilot Board Action: Minute No. 2013-0122-02  Pursuant to the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel between the Galveston Bar and the Turning Basin Houston, Texas (Rules), adopted August 25, 1993 by Minute No. 1881, and amended by Minute Nos. 2007-1030-66, 2010-0323-23, and 2013-0723-08, an Application Review Committee (ARC) is appointed annually by the Chairman of the Pilot Board, with the appointees subject to approval by the Pilot Board. The Rules provide that the ARC shall be composed of voting members from the Houston Pilots Association, the Port of Houston maritime industry, the Harris County community at large, and the Port of Houston Authority, and chaired by a Port of Houston Authority voting member.		
<b>Staff Evaluation/Justification:</b> Pursuant to the Rules, the Chairman of the Pilot Board appoints, subject to approval by the Pilot Board, the following as members of the Application Review Committee (ARC):  Marcus Woodring, Chairman - Port of Houston Authority Captain Michael A. Morris - Houston Pilots Association, Presiding Officer Captain Paul Brown - Houston Pilots Association Captain Joe Hill - Maritime Industry Pat Studdert - Maritime Industry Brian Rego - At Large Sarah Janes - At large  The Secretary of the Pilot Board requests that the Pilot Board approve each ARC member appointee, to serve for the calendar year 2014 and thereafter until a replacement is named.		
<b>Full Recommendation:</b> The Board of Pilot Commissioners, at its January 31, 2014 meeting, approve the appointment of each nominee to the Pilot Board Application Review Committee for the calendar year 2014 and thereafter until a replacement is named, 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> January 31, 2014	<b>Agenda Section:</b> E - 3
<b>From:</b> <b>Division:</b> Legal <b>Branch:</b> Pilot Administration	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Appointment of Pilot Board Investigation and Recommendation Committee (PBIRC) Members.		
<b>Background:</b> Prior authorizing Port Commission Action: Minute No. 2013-0122-03  Pursuant to the Rules and Regulations Governing Pilots and Pilotage on the Houston Ship Channel between the Galveston Bar and the Turning Basin Houston, Texas (Rules), adopted August 25, 1993 by Minute No. 1881, and amended by Minute Nos. 2007-1030-66, 2010-0323-23, and 2013-0723-08, the Pilot Board Investigation Recommendation Committee (PBIRC) investigates, holds hearings, and makes recommendations regarding certain accidents on the Houston Ship Channel and matters pertaining to the Rules. The Rules provide that the PBIRC is appointed annually by the Chairman of the Pilot Board, with the appointees subject to approval by the Pilot Board. The Rules provide that the PBIRC shall be composed of voting members from the Houston Pilots Association, Port of Houston maritime industry, and the Port Authority, and nonvoting advisory members from the U.S. Coast Guard, and chaired by a Port Authority voting member.		
<b>Staff Evaluation/Justification:</b> Pursuant to the Rules, the Chairman of the Pilot Board appoints, subject to approval by the Pilot Board, the following as members of the Pilot Board Investigation Recommendation Committee (PBIRC):  Marcus Woodring, Chairman - Port of Houston Authority Captain Michael A. Morris - Houston Pilots Association, Presiding Officer Captain Michael A. Curtiss - Houston Pilots Association Captain Sean P. Arbogast - Houston Pilots Association Paul A. Caruselle - Maritime Industry Tim Leitzell - Maritime Industry Captain David Foret, Jr. - Maritime Industry Thomas P. Marian - Maritime Industry Richard E. Ford - Maritime Industry U.S. Coast Guard representative - (Non-voting advisory member)  The Secretary of the Pilot Board requests that the Pilot Board approve each PBIRC member appointee, to serve for the calendar year 2014 and thereafter until a replacement is named.		
<b>Full Recommendation:</b> The Board of Pilot Commissioners, at its January 31, 2014 meeting, approve the appointment of each nominee to the Pilot Board Investigation Recommendation Committee for the calendar year 2014 and thereafter until a replacement is named, 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> January 31, 2014	<b>Agenda Section:</b> E - 4
<b>From:</b> <b>Division:</b> Legal <b>Branch:</b> Pilot Administration	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Recommendation for renewal of Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Richard D. Moore.		
<b>Background:</b> Prior authorizing Pilot Board action: Minute No. 2010-0223-32  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 and Galveston Bar. 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 Galveston Bar, and an investigation including a criminal background check and the applicant's accident history is conducted.		
<b>Staff Evaluation/Justification:</b> Captain Richard D. Moore has applied for renewal of his commission as Branch Pilot for the Houston Ship Channel and Galveston Bar. The application includes continued education training in Fatigue, Sleep, & Medication, and in Manned Model Ship Handling, and a renewal request on his behalf from the Houston Pilots with 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 Richard D. Moore 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 and Galveston Bar.  Accordingly, the ARC respectfully submits to the Pilot Board the application of Captain Richard D. Moore to renew his commission as Branch Pilot for the Houston Ship Channel and Galveston Bar. Such commission is for a four-year term.		
<b>Full Recommendation:</b> The Pilot Board, at its January 31, 2014 meeting, recommend to the Governor the renewal of the commission of Captain Richard D. Moore as Branch Pilot for the Houston Ship Channel and Galveston Bar, for a four-year term effective March 16, 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> January 31, 2014	<b>Agenda Section:</b> E - 5
<b>From:</b> <b>Division:</b> Legal <b>Branch:</b> Pilot Administration	<b>Staff Contact:</b> Erik Eriksson	
<b>Summary Recommendation:</b> Recommendation for Branch Pilot Commission for the Houston Ship Channel and Galveston Bar: Captain Robert C.S. Roberts.		
<b>Background:</b> Prior authorizing Pilot Board action: Minute No. 2011-0405-02  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 and Galveston Bar. 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 Galveston Bar, and an investigation including a criminal background check and the applicant's accident history is conducted.		
<b>Staff Evaluation/Justification:</b> Captain Robert C.S. Roberts has applied for commission as Branch Pilot for the Houston Ship Channel and Galveston Bar. Captain Roberts 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 Manned Model Ship Handling, Ship Handling with Tractor Tugs, Electronic Chart Display Information System (ECDIS) and Electronic Navigation (e-nav), Bridge Resource Management - Pilots (BRM-P), and Legal Aspects of Piloting, and a request for a commission on his behalf from the Houston Pilots with 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 Robert C.S. Roberts 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 and Galveston Bar.  Accordingly, the ARC respectfully submits to the Pilot Board the application of Captain Robert C.S. Roberts for his commission as Branch Pilot for the Houston Ship Channel and Galveston Bar. Such commission is for a four-year term.		
<b>Full Recommendation:</b> The Pilot Board, at its January 31, 2014 meeting, recommend to the Governor the commission of Captain Robert C.S. Roberts as Branch Pilot for the Houston Ship Channel and Galveston Bar, for a four-year term effective April 5, 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.		