

MINUTES

HARBOR SAFETY COMMITTEE OF THE SAN FRANCISCO BAY REGION

10:00 A.M., Thursday, April 13, 1995

Port of Oakland Board Room, 530 Water Street, Oakland, California

1. The public meeting was called to order by Chair, Arthur Thomas, San Francisco Bar Pilots at 10:15. The following committee members or alternates were in attendance: Dave Adams, Port of Oakland, Margot Brown, National Boating Federation, Bob Clinton (alternate for Ron Duckhorn), Crowley Marine Services; James Faber, Port of Richmond, Marci Glazer, Center for Marine Conservation, Alexander Krygsman, Port of Stockton, Geoff Landon (alternate for Maurice Croce), Chevron Shipping Company; Gunnar Lundeberg, Salilors' Union of the Pacific; Joan Lundstrom, San Francisco Bay Conservation and Development Commission; Roger Peters, Port of San Francisco; Gail Skarich, Sanders Towboat; Richard Smith, Sea River Maritime; representatives from the U.S. Coast Guard, Captain Donald Montoro and Commander Dennis Sobeck (VTS); Scott Schaefer and Ray Salmons; John Rodgers, Marin County OES; Gail Bowler, San Francisco Bar Pilots.
2. T.Hunter, Marine Exchange, confirmed that a quorum was present.
3. **MINUTES OF PERVIOUS MEETING.** The following corrections were made:
Paragraph 1, Maurice did not attend the last meeting, Geoff Landon was the alternate.
Paragraph 8, the VBMS met only once.
Paragraph 11 the fourth sentence should read, "D. Koops reported that the state of Alabama has focused on certification rather than enforcement.
MOTION by M. Brown, seconded by Jim Faber, "to approve the minutes with corrections."
Motion passed without objection.
4. In leau of opening remarks, A. Thomas relinquished the floor to Carl Moore, OSPR to address the Brown Act. He advised that Pete Bontadelli thought it wise to advise the HSC on the Brown Act.
 - 5.a) C. Moore, OSPR. The Brown Act is a state statute which sets out requirements for noticing meetings, routine, special, closed and emergency. The statute states, in pertinent part, that a legislative body is "a commission, committee, board for having decision making or advisory authority, created by formal action of a legislative body" and required, "at least 72 hours before a regular meeting ... [to] post an agenda containing a brief general description of each item of business ..." A special meeting may be called by the presiding officer, with members of the legislative body receiving notice of the meeting 24 hours prior to the start of the meeting. "This notice shall also be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public." "In case of an emergency situation, the legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement." The HSC is a legislative body that was created by statute. If the HSC empowered the chairman to create a sub-committee, then that is a legislative body and is subject to the Brown Act. However, if the sub-committee is appointed by the Chair without committee empowerment, and the membership can change, then it does not fall within the confines of the Brown Act. There are exceptions to this rule: (1) If the body makes a decision via a telephone conference, then that should be noticed; (2) If the body discusses the agenda over the telephone, then that is not considered a meeting, and no notice is required; (3) If members of the body make decisions over the telephone, they should bring these decision to the next meeting and state that this is a recommendation for decision at the open meeting.
 - b. **COMPLIANCE:** Presently, HSC is in compliance with the Brown Act. HSC has a mailing list; purge it annually. Send forms to everyone on the mailing list indicating that if they would like to receive notices of the meetings, then they must return the form. If you must have an Emergency, Special or Closed Meeting, please call C. Moore first. Secret ballots are allowed. However, it was recommended that HSC not get into that area. Meetings that discuss qualifications of individuals or membership should be closed, however, please call C. Moore for more information.

c. **NONCOMPLIANCE:** If there is have been findings of non-compliance, the following can happen: (1) Noncompliance complaints can be rectified by future compliance. (2) The action that was decided at the meeting can be set aside if the meeting was not adequately noticed. HSC can be compelled to have a subsequent meeting to correct the error. (3) Someone could seek equitable relief in terms of a temporary restraining order (TRO) or injunction to have the Administrator not accept the action.

d. **LIABILITY:** Any board member could get sued, because the body, which is a creature of the legislature, an autonomous entity, is subject to suit. Since HSC is a creature of the legislature the members enjoy public employee status, and there is generally no personal liability, if the members were operating within the scope of employment. The doctrine of Vicarious Liability protects the members from personal liability, and the state is liable. However, the doctrine of Ultra Vires will come into play, and hold the members personally liable, if they act beyond the scope of employment. The Air Resources Board has drafted language to be implemented in the code which allows for express liability for the HSC.

6. **PILOTAGE PROGRAM:** AB 1119 is a mandatory pilotage scheme throughout the state. According to Section 46 USC 8904(a)(b) the federal government will make recommendations if the Coast Guard does not do pilotage. This program will reference certification, discipline, etc. A meeting will be held on Monday afternoon to discuss the parameters of the program. There will be some amendments to the Bill to protect San Francisco. Currently there are 26 Bills that relate to the the HSC. C. Moore will give a copy of all Bills that impact the HSC to the Clearinghouse who will distribute them to the HSC. However, Mark Garcia (916) 327-3200 can assist HSC with specific questions about the Bills.

7. **COAST GUARD REPORT.** D. Montoro. (1) RNA has been published. Copies were distributed. (2) There were 72 cases reported, 13 penalites, 3 federal clean-ups, which were all related to derelicts. (3) There was one vessel on a return trip that had steering failure. (4) The CG conducted an oil spill response exercise. They ran their own management system and trained with OSPR an incident command system. (5) With regards to escorts in Stockton, were they regulated/certified? The CG does not use the term "certified" bollar poll, just bollar poll, so there is no way to identify whether or not they were "certified". A suggestion from the Chairman was that, although the Federal regulations do not require certification, it would be appropriate for the CG to use certified equipment, and not just equipment that is attested to.

8. **CLEARINGHOUSE REPORT.** J.McCarthy. There were 281 arrivals, 23 less than March 1994. There were 87 tanker arrivals which is the same as March 1994. There were 331 movements and escorted barge movements: 274 tank ship movements; 137 escorted tank ship movements; 57 escorted barge movements; 137 unregulated tank ship movements. There were 5 Sealift tankers into the bay. There were 10 escorted movement and 1 unregulated movement. There was one reported vessel for technical violations.

9. **OSPR REPORT.** B. Leland. (1) Participated in the CG drill. Tried to incorporate local agencies. OSPR will act as a liaison, should there be a spill. There will be a written assessment of the drill, however OSPR prefers that the CG produce the report. According to D. Montoro, during the first week of May an evaluation of the drill will be made to the public. In addition, the CG is doing an in-house critique. (2) Working on a request to the Federal Commerce Dept. for an Economic Development Grant which will have two purposes: (a) port installation, and (b) establish ongoing maintenance program. (3) The report on marine pilotage should be released one week from Friday.

10. **CUSTOMER SERVICE MEETING RECAP.** S. Schaefer. (1) Their headquarters is in Long Beach, with a field office in Hercules. (2) There were two non-incidents: (a) 40-45 barrel spill in Los Angeles while loading a barge. Most of the oil was contained by boom. Another boom was placed around the first boom, so that the oil was contained. (b) UNOCAL in Rodeo shut down a transfer and got the vessel properly moored. (3) Their main purpose is to enforcement. They hold a meeting 3 - 4 times a year in Northern and Southern California.

Had the last meeting at CalMaritime with over 100 attendees. It created a forum for the industry to talk about new things they are doing. Some of the new technologies include: EXXON collision avoidance system in Benecia, Lead Detective System for Pipelines. OSCAR, a water permeable boom, why water goes through, but retracts the oil.

11. **BRIDGE MANAGEMENT SUB-COMMITTEE.** D. Koops. The sub-committee held one meeting last month. They reviewed the recommendations of the HSC Plan. The sub-committee came up with a number of new recommendations which will be provided to Joan for inclusion. The sub-committee will finalize the proposal, in its next meeting, one week from Friday. The proposal contains certain changes like: lights on bridge; channels bridges monitors; "voter" education; enforcement on water.

12. **P.O.R.T.S.,** D. Adams. The sub-committee met on March 3, 1995. Jim Morris constructed the matrix. There is a rough draft, but will not be submitted to the group. Dave was unavailable, but Capt. Carl Bowler was there and can give feedback with regard to: real time data, archive, safety in the Bay. According to Capt. Carl Bowler. NOA has lots planned: (1) Capt. Tim Richards will set-up headquarters to coordinate all NOA activities and direct the P.O.R.T.S. project which will build on that technology; (2) Contacted Norm Hoffman, Monterey, who is interested in using the P.O.R.T. system to collect data to improve weather forecasting. (3) NOA sent Commander Taffy Timmons, with Corps of Engineering to combine Roster Data Chart with Vector Data Chart to update constantly. P.O.R.T.S. would permit a vessel to constantly have water level info/data. (4) Currently working on a project to have an automated tracking positioning system in the Fall of '95. P.O.R.T.S. is important to this and will be expanded to this area. (5) There are two data collection sites: Port Chicago and Alameda. You may call (707) 642-4337 for info. (6) A ball park figure for maintenance would be \$250,000. However, maintenance cost depends on how extensive it is used. However, as stated in the first meeting, there is no anticipated charges to the ports. But once there is federal involvement then this will have to be reassessed. NOA is looking at this as a marketing issue and this will tie into the Economic Development Grant. This technology could be utilized in International Export. User groups have been identified: Commercial, Government and Recreational. Looking at archival info, real time, and research. After new Chief of NOA, then there will be a critique of the Matrix, and a request to NOA for a resolution to adopt our identification needs into their delivery system.

13. **PLAN REVIEW SUB-COMMITTEE.** J. Lundstrom. They will have a draft of the report of the recommendations by May 1st. If they do not make the time-frame then they will ask for an extension.

14. **TUG ESCORT SUB-COMMITTEE.** R. Peters. Although they have had 6 different meetings, their plan/intent to bring a draft is not yet achievable. They had the Workshop which reviewed the preliminary guidelines. It dealt with such items as replacement of static baller point; developed of concept of displacement versus dead weight.

15. March 15th meeting: Reviewed justification of Bar Pilot Matrix; Reviewed federal standard; Reviewed letter on need for justification to change to plan, especially with regard to Matrix -- determined inadequate justification for Matrix; developed four working groups, which will (1) identify failure probability -- occurrence of single/ double failure; (2) analysis of each individual waterway in Bay which will assist with the Matrix.

16. March 29th meeting: Broke into the four working groups: (1) Failure Probability - analysis to be done by technical assistant. C.G. has a database that is available. SF Bar Pilot Commission also has data which they will use for sensitivity issues. C.G. will develop info for total number of tanker cells throughout the nation. (2) Waterway Group Met - asked to evaluate a prototype waterways development.

17, March 11th: Waterway reviewed work of pilot. Waterway analysis did not help establish oil-spill avoidance. Thus, the thought is to not focus on Waterway analysis, but to develop what single failure demands are, since they already know what the multiple demands are. They will arrange a Matrix between 2 types of

demands, then decide what type of Matrix to establish between these two demands. There is a Peer Review Report which is available to everyone.

18. **UNFINISHED BUSINESS.** None.

19. **NEW BUSINESS.**

J. Lundstrom suggested that we take up OSPR's offer to give us a synopsis of the Bills and then assign them to a sub-committee to see if there is any action we would like to take. A. Thompson will put this in place via a Memo.

M. Brown stated that there is a Bill that affects small vessel docks. It is more interested with regard to the association that HSC represents.

T. Hunter, the Marine Exchange is having an Open House on May 5th at 4:00 p.m. All are invited. Sponsored by the Board of Director, Marine Exchange.

M. Brown stated that there is a decorated boat parade on April 30th at 11:00 a.m. The committee's boat is the Potomac. It will be at Pier 39, and KFRC will broadcast.

R. Smith stated that the supplemental report on Martinez/Benecia Bridge is open to the public. There is a public hearing on April 25th at Benecia High. The HSC recommendation to CalTrans still stands. J. Lundstrom stated that ACTC will comment with regard to navigational safety. C. Bowler stated that the claim that there is no navigation hazard with regard to the west side bridge is untrue. R. Smith suggested that we write a letter stating our position again.

20. **NEXT MEETING.** The next meeting will be held on May 11, 1995 10:00 a.m. at Fort Mason Center, Building C, Room 370. After this meeting then all San Francisco meeting will be in the Fire House. Notification will be mailed.

21. **MOTION** to adjourn the meeting at 11:45 a.m. was without objection.

Respectfully submitted



Terry Hunter,
Executive Secretary