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| Meeting Date: March 24, 2016 | Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111 BOARD MEETING MINUTES | Page 1 of 14 |
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Board Members Present

Dave Connolly, Vice President, Public Member
Captain George H. Livingstone, Pilot Member
Captain Joe Long, Pilot Member
John Schneider, Wet Cargo Industry Member
Benjamin De Alba, Assistant Secretary for Rail and Ports,
representing the Secretary of the California State Transportation Agency (CalSTA)

Board Members Absent

Jennifer Ferrera Schmid, Public Member
Vacant, Dry Cargo Industry Member
Vacant, Public Member

Staff Present

Allen Garfinkle, Executive Director
Roma Cristia-Plant, Assistant Director
Christiana Tiedemann, Acting Board Counsel
Sigrid Hjelle, Office Technician

Public Present

Past Board President Knute Michael Miller; Port Agent Peter McIsaac; Ray Paetzold, San Francisco Bar Pilots (SFBP) Business Director-General Counsel; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; SFBP Captain Randall Pinetti; Captain Dennis Plant, Chevron; Rollie Caabe, State Lands Commission; and George Nowell, Esq.

OPEN MEETING:

1. Call to Order and Roll Call – Vice President Connolly

Vice President Connolly called the meeting to order at 9:30 a.m. Assistant Director Cristia-Plant called the roll and confirmed a quorum.

2. Board Officer Elections – Executive Director Garfinkle and Board Counsel Eagan

A) Explanation of rules and customs applicable to Board officer elections.

B) Board members to elect a President of the Board. Possible Board action to elect a President of the Board.

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C) Board members to elect a Vice President of the Board. Possible Board action to elect a Vice President of the Board.

Vice President Connolly stated that he wished to defer elections of Board officers until all sitting Board members are present. Executive Director Garfinkle and Acting Board Counsel Tiedemann confirmed elections could be held without all Board members present, and that Board members could be elected even if absent.

Commissioners Long and Schneider agreed with Vice President Connolly that next month would be a more appropriate time to consider Board officer elections. No action was taken, and this item was deferred to next month's Board agenda.

**3. Review and approval of Board meeting minutes – Board President
Board action to approve Board meeting minutes from the meeting held on February 25, 2016.**

Board members were presented with the minutes of the meeting held on February 25, 2016. There was no discussion and no public comment of the minutes.

MOTION: Commissioner Long moved to approve the minutes of the meeting held on February 25, 2016. Commissioner Livingstone seconded the motion.
VOTE: YES: Connolly, Livingstone, Long, and Schneider.
NO: None.
ABSTAIN: None.
ACTION: The motion was approved.

**4. Announcements – Board President
Announcement of events affecting Board business since the last Board meeting.**

There were no announcements.

**5. Board Member Activities – Board Members
Reports by Board Members having Board business-related activities since the last monthly Board meeting or planned prospectively.**

There were no announcements.

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6. Directors’ Report – Executive Director Garfinkle/Assistant Director Cristia-Plant

A) Correspondence and activities since the Board meeting held on February 25, 2016.

Executive Director Garfinkle reported on correspondence received by the Board since the February Board meeting as follows:

- On March 3, 2016, the Board staff received an article from the *Journal of Commerce* reporting on CMA CGM’s plans to deploy six 18,000 TEU ship’s in trans-pacific service through the west coast. These ships will be shifted from the Asia-Europe trade.
- On March 4, 2016, the Board staff in conjunction with California Highway Patrol (CHP) posted a job announcement for the vacant Staff Services Analyst position. The final filing date was March 18, 2016.
- On March 8, 2016, the Board staff received confirmation that the biennial State Leadership and Accountability Act report had been reviewed and accepted by the Department of Finance.
- On March 9, 2016, the Board staff received a copy of the opening brief filed by Captain Reeder in his appeal of Reeder v. Pilot Commissioners.
- On March 10, 2016, he attended the Harbor Safety Committee meeting. He noted that Captain Greg Stump’s command as Captain of the Port is coming to an end.
- On March 10, 2016, the Board received a copy of the Marine Safety/Security Information Bulletin (MSIB) 16-01 Safety Alert issued on February 24, 2016, titled, “Don’t get distracted – maintain a proper look-out!” He reported the MSIB reminds mariners that distraction can be caused by hand-held electronic devices, primarily cell phones, and that the Captain of the Port recommends that all vessel owners and operators refrain from utilizing portable electronic devices while navigating their vessels.
- In March 2016, Board staff received a Bronze Award from the “Our Promise” charitable campaign of California State employees giving through work. He stated the Board received the award for achieving a 25-39% participation rate for the 2015 campaign.

B) Report on pilot licensing matters in the past month and current month.

- Between the January and February Board meetings, staff renewed the licenses of Captains Roberts, Lingo and Stultz.
- Since the February Board meeting, staff renewed the licenses of Captains Aune, Bridgman, Lemke, Melvin and Pate.
- During the February Board meeting, he stated he was authorized by the Board to issue new licenses to Pilot Trainee Training Program graduates Captains Hirschfeld and Kasper conditioned upon satisfaction of all requirements for the issuance of a

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license. He reported that all license issuance requirements were met by both former trainees, and that Captains Hirschfeld and Kasper were issued licenses. He also reported that the Board now has 56 licensees.

C) Report on Board surcharges.

Executive Director Garfinkle reported the Board received a check from the SFBP for \$112,161.51 for the February 2016 surcharge revenues as follows:

- Board Operations Surcharge: \$59,736.51
- Pilot Continuing Education Surcharge: \$3,085.00
- Trainee Training Surcharge: \$49,340.00

D) Report on legislative activities and contractual matters.

Assistant Director Cristia-Plant reported the following legislative activities and contractual matters events had occurred since the last Board meeting:

- The introduced version of Senate Bill (SB) 1312 (Wieckowski) proposes to, among other things, amend the procedures for pilotage rate hearings to be before an administrative law judge before the rate increase request is considered by the Board. The bill is scheduled to be considered by the Senate Governmental Organization Committee on April 12, 2016.
- The interagency agreement with the State Controller’s Office (SCO) for the pilotage and revenue audits was fully executed on March 7, 2016. Staff will work with the SFBP and SCO to schedule the 2014 and 2015 audits in the near future.
- Draft manned model request for proposal documents were sent to the Department of General Services for legal review on March 15, 2016. Staff requested an expedited review.
- CHP sent a draft interagency agreement for psychometrician services for the next Pilot Trainee Training Program entrance examination to the Department of Human Resources on March 22, 2016. The projected contract start date is July 1, 2016.
- CHP sent a draft interagency agreement for Pilot Continuing Education Program training services to the California Maritime Academy (CMA) on March 22, 2016. The next pilot continuing education training class is scheduled for mid-April.
- Staff sent a draft of the interagency agreement with CMA for the Pilot Trainee Training Program entrance examination services to CHP on March 23, 2016. CHP will review and forward the agreement to CMA for final review and signature. The effective date for this interagency agreement is set for July 1, 2016.
- The contract with University of California San Francisco (UCSF) for pilot fitness determinations expires on April 30, 2016. Staff is working on drafting a renewal interagency agreement.

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- Staff is still projecting to complete a contract with the San Jose State University Research Foundation for the pilot fatigue study in May.
- The current Pilot Pension Plan contract with an accounting firm for retirement and Pilot Pension Plan surcharge calculations expires on March 31, 2016. Staff will work with CHP to procure another State certified small business accounting firm as soon as possible. In the interim, staff will perform monthly pension plan payment calculations.
- The California Public Employment Retirement System (CalPERS) has confirmed that the Board can utilize one of the firms from their pool of actuaries. Staff will work with CalPERS upon direction from the Board to contract with an actuary.

Executive Director Garfinkle responded to a question from Commissioner Long about the Board’s role in expressing an opinion on SB 1312, and stated that the Board staff will prepare a bill analysis that will be submitted to CalSTA, and that CalSTA will review the analysis and forward it to the Governor’s Office. Mr. DeAlba confirmed that procedure for bill analyses, stated that bill analyses are confidential, and confirmed he would inquire further with CalSTA to determine the appropriate role for the Board with respect to pending legislation.

Assistant Director Cristia-Plant confirmed for Vice President Connolly that the State Leadership in Accountability Audit is an administrative audit due at the end of every odd year, and that the technology recover plan mentioned in the Board’s 2015 audit as an outstanding follow-up item was completed at the end of January 2016.

7. Port Agent’s Report – San Francisco Bar Pilot (SFBP) Port Agent Capt. Peter McIsaac

A) Monthly report on pilot availability and absences.

Port Agent McIsaac reported that five pilots—Chapman, Coppo, Roberts, Kleess and Coney—were absent for medical reasons between the February and March Board meetings, or portions thereof. He reported that Captains Coppo and Roberts were determined fit for duty on March 9, 2016.

Port Agent McIsaac stated that the SFBP continually monitors the dispatch list for possible minimum rest period (MRP) exceptions, and identified a variety of mitigating measures employed if circumstances are likely to result in a rest period of less than ten hours. He reported that these measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings, cancelling previously granted compensating time off requests, suspending SFBP internal working rules, or calling in off-watch pilots.

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(retired SFBP) was a member of the conference leadership panel, and she met with several cadets from United States Merchant Marine Academy, SUNY Maritime College, Maine Maritime and CMA who were interested in becoming a pilot.

- On March 18, 2016, meetings were conducted with several women mariners currently serving in various command and deck positions to encourage them to apply to take future Pilot Trainee Training Program entrance examinations.
- On March 18, 2016, there was a meeting with Wendy Higgins, Director of Career Services at CMA, to formalize an internship program with the SFBP. One topic discussion was that the internship program should place an emphasis on ensuring inclusion of diverse candidates interested in a career as a pilot.
- On March 18, 2016, three candidates for an internship program were interviewed, including one woman and one Latino. During the interviews, several female cadets and second mates with career goals of becoming a pilot were also identified.
- On April 5, 2016, the SFBP diversity committee will plan to tour Tongue Point Job Corps center in Astoria, Oregon to conduct a presentation on piloting careers, and to discuss career paths to entering the Board’s Pilot Trainee Training Program.
- The diversity committee also has plans for further meetings with CMA President Cropper and Vallejo School District Superintendent Dr. Bishop to pursue long term goals of educating diverse populations on the career path to becoming a pilot.

Commissioner Livingstone stated that the SFBP is passionate about its diversity efforts.

C) Monthly confidential written report of pilots who have been absent for medical reasons (AFMR) presented to Board. The Board may go into closed session to discuss contents of the Port Agent’s confidential report as authorized by Harbors and Navigation Code § 1157.1.

There was no discussion of the confidential written report of pilots who have been absent for medical reasons. There was no closed session discussion of this item.

8. Pilot Evaluation Committee – Captain George Dowdle

A) Report on the Pilot Evaluation Committee (PEC) meeting held on March 16, 2016.

PEC Chairman Captain Dowdle could not attend the Board meeting. Port Agent McIsaac read Chairman Dowdle’s PEC report for the Board, and reported that the PEC met on February 16, 2016, and all trainees were interviewed individually in closed session. He further reported:

- The six current trainees include Captains Lowe, Billingsley, Murray, Rubino, Cvitanovic and Epperson.

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- The trainees' time in the Pilot Trainee Training Program ranges from 7 to 19 months.
- There are currently two trainees in the evaluation stage of the program, and both are close to completion.
- Two new trainees, Captains Alferts and Vogel, will begin training on March 28, 2016, and will attend an orientation on that day conducted by Chairman Dowdle and Executive Director Garfinkle.
- Three to four trainees may be attending the bridge resource management training conducted by CMA in mid-April, and additional trainees may attend the training as space permits.
- The PEC will next meet on April 20, 2016.

B) Possible PEC recommendation to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program. Possible Board action to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program.

There were no recommendations.

C) Possible PEC recommendation for a determination that a trainee has or trainees have completed the Pilot Trainee Training Program. Possible Board action to award a Certificate of Completion to a trainee who has completed the Pilot Trainee Training Program.

There were no recommendations.

D) Possible recommendation from the Executive Director for the appointment of a new pilot or pilots. Possible Board action to accept a recommendation from the Executive Director that a trainee holding a Certificate of Completion from the Pilot Trainee Training Program be licensed as a state pilot.

There were no recommendations.

9. Reported safety standard violations – Executive Director Garfinkle (Reports received between the issuance of this notice and the meeting will also be reported on.)

Executive Director Garfinkle stated Captain Pinetti submitted a pilot boarding arrangement deficiency report for an event that occurred on the M/T OVERSEAS BOSTON on March 17, 2016. He stated the report reflected that the freeboard was 11.5 meters, and that Federal and International Law requires a combination accommodation/pilot ladder when over 9 meters. Captain Pinetti stated he spoke to the ship's master, and was told that there was an issue with crew overtime.

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Executive Director Garfinkle confirmed for Vice President Connolly that Captain Pinetti forwarded the report to the United States Coast Guard. Commissioner Long requested the container loss off the M/V MANOA be referred to the Pilot Safety Committee for further discussion.

10. Reportable Piloting Events – Executive Director Garfinkle (Reports received between the issuance of this notice and the meeting will also be reported on.)

Status report on the event involving the M/V STAR LUSTER allision with overhead power cables in the Port of Stockton on January 19, 2016. Possible Board action to grant an extension to present the M/V STAR LUSTER Incident Review Committee incident report at the April Board meeting. If an extension is requested, the delay in presenting the report will be due to the investigation and the gathering of evidence not being completed.

Executive Director Garfinkle reviewed the Incident Review Committee (IRC) status report and events that have occurred to date for the incident involving the M/V STAR LUSTER, and stated evidence is still being analyzed and the applicable law researched by the IRC. He requested an extension of the due date of the IRC report since the 90-day deadline date is before the April Board meeting on April 28, 2016.

- MOTION: Commissioner Long moved to approve an extension of the Incident Review Committee report until the Board meeting on April 28, 2016. Commissioner Schneider seconded the motion.
- VOTE: YES: Connolly, Livingstone, Long, and Schneider.
NO: None.
ABSTAIN: None.
- ACTION: The motion was approved.

11. Loss of Propulsion/low sulfur fuel report – Executive Director Garfinkle

Report on loss of propulsion events arising in February 2016, including those events suspected to be due to low sulfur fuel issues.

Executive Director Garfinkle provided the Board with the February USCG Prevention/Response San Francisco Harbor Safety Statistics report, and stated that there were no loss of propulsion events reported.

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12. Finance Committee – Commissioner Schneider

A) Report on the Finance Committee held on March 15, 2016.

Commissioner Schneider reported that the Finance Committee met on March 15, 2016, and reviewed the Board’s budget, funds condition and surcharge rates. He presented the Committee’s recommendations to the Board as follows:

- To increase the Board Operations Surcharge rate from 2% to 3% effective July 1, 2016. He stated that the Committee is raising the rate in a fashion to avoid rapid rate spikes and smooth rate changes while maintaining an amount equivalent to approximately one year of the Board’s Operations budget in the fund balance as a reserve. He stated the Committee discussed the reserve balance goal, and directed staff to draft a memo to the Department of Finance listing the Committee’s reasoning to achieve a fund balance goal of a one-year budget amount, and that the Committee will review the draft letter at its next meeting.
- The Committee recommends a \$2 increase in the Pilot Trainee Training Surcharge rate from \$10/trainee/move to \$12/trainee/move, effective April 1, 2016, and that this increase should provide sufficient funding for this program while maintaining a reasonable fund balance.
- The Committee is not recommending a change to the Pilot Continuing Education Surcharge rate.
- The Committee is not recommending a change to the Pilot Vessel Surcharge Rate.

B) Review Board Operations Surcharge (currently 2.0%), Pilot Continuing Education Surcharge (currently \$5 per move), Pilot Trainee Training Surcharge (currently \$10/trainee/move), and Pilot Vessel Surcharge (currently at 3.27 mills or \$0.00327). Possible recommendation by the Finance Committee to increase or decrease the amount of any of the surcharges. Possible Board action to approve changes to the surcharge amounts as may be recommended by the Finance Committee, if any.

There was no further discussion or public comment of the Finance Committee’s surcharge rate recommendations.

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MOTION: Commissioner Schneider moved to approve: an increase in the Board Operations Surcharge rate from 2% to 3%, effective July 1, 2016; an increase in the Pilot Trainee Training Surcharge rate from \$10/trainee/move to \$12/trainee/move, effective April 1, 2016; no change to the Pilot Continuing Education Surcharge rate; and no change to the Pilot Vessel Surcharge rate. Commissioner Long seconded the motion.

VOTE: YES: Connolly, Livingstone, Long, and Schneider.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

13. Board Rulemaking status report – Executive Director Garfinkle/Assistant Director Cristia-Plant/Board Counsel Eagan

Report on the status and progress of various Board rulemaking efforts, including the following sections in Title 7 California Code of Regulations:

- A) Section 211.5 – Commission Investigator Minimum Standards (amend minimum qualifications standards).**
- B) Section 213 – Pilot Trainees (add exam fee and clean-up of regulations).**
- C) Section 215 – Pilot and Inland Pilot Training (add fatigue management and radar navigation in low/restricted visibility training and clean-up).**
- D) Section 218 – Duties of Port Agent (amend requirement for assignments of pilots with under 12 and 18 months experience).**
- E) Section 222 – Conflicts of Interest (add Port Agent Conflict of Interest regulation).**

Executive Director Garfinkle reported that the Omnibus Rulemaking Package covering Code of Regulations Sections 211.5, 213, 215 and 218 were sent to the Office of Administrative Law and will be included in the Notice Register on March 25, 2016, and that the rulemaking documents are already up on the Board’s website.

He further reported that the rulemaking materials for Section 222 have been approved by the CalSTA Secretary, and will be forwarded to the Department of Finance for review of the fiscal impact in the near future, and then will be sent to the Office of Administrative Law.

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14. Report on the status of Public Records Act litigation – Board Counsel Eagan

Status report on Public Records Act litigation: Pacific Merchant Shipping Association vs. BOPC and Peter McIsaac as Port Agent, Writ of Mandate. The Board may go into closed session to discuss with Board Counsel any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.

Acting Board Counsel Tiedemann reported that on March 2, 2016, the Superior Court issued its final judgment for award of attorney’s fees to PMSA, and noted that there will be no relief against the Board. She responded to a question from Commissioner Long and stated that the Department of Finance has confirmed to the Department of Justice that the Board will not pay the attorney costs. Commissioner Long requested to discuss this item further in closed session.

15. Report on Craig E. Reeder vs. State Board of Pilot Commissioners litigation. – Board Counsel Eagan

Progress report on Reeder vs. Board of Pilot Commissioners. The Board may go into closed session to discuss with Board Counsel any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.

Acting Board Counsel Tiedemann reported that Captain Reeder has filed an appeal, but that the Department of Justice staff have not yet responded to the appeal. There was no Board member discussion or public comment.

16. Board discussion of best practices in maritime safety – Commissioner Connolly

A Board discussion of best practices in maritime safety and/or lessons learned from Incident Review Committee incident reports or other sources, and possible directions to staff to develop safety policies and procedures. Possible Board action to direct staff to develop safety policies and procedures.

There was no best practices report. Commissioner Livingstone requested that the Pilot Safety Committee, at its next meeting, discuss safety issues from the M/V MANOA and the OVERSEAS BOSTON events.

Port Agent McIsaac stated there is a West Coast Pilot Safety meeting scheduled for early April, and that he would provide the Pilot Safety Committee with a report about the meeting. He confirmed for Vice President Connolly that pilot peer reviews have begun, and that the review process is still in the development stage. There was no further Board member discussion or public comment.

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17. Performance Evaluation of the Executive Director – Commissioner Connolly

Annual Performance Evaluation of Executive Director. The Board may go into closed session pursuant to 11126(a)(1) of the Bagley-Keene Open Meeting Act to discuss the evaluation.

Vice President Connolly stated that he is still collecting evaluations from Board members, and he will postpone the Executive Director annual evaluation to the April Board meeting.

18. Presentation and discussion of a request for a disability pension by San Francisco Bar Pilot Captain David Chapman – Executive Director Garfinkle.

Presentation and discussion of disability pension request by SFBP Captain David Chapman. Possible Board deliberation and finding on:

- A) Whether Captain Chapman is disabled within the meaning of Harbors and Navigation Code section 1164(b).**
- B) If the Board determines that Captain Chapman is disabled as defined in section 1164(b), the Board must determine the date of that permanent disability.**

The Board may go into Closed Session to discuss Captain Chapman’s confidential medical reports as authorized by Harbors and Navigation Code, §1157.1.

Executive Director Garfinkle stated that not all documentation has been received for the Board to consider Captain Chapman’s disability retirement request. He stated that there have been delays in getting Captain Chapman’s medical records from his personal physician to the Board’s physicians at UCSF.

19. Incident Review Committee report on the M/V JIANGMEN TRADER – Board President/Vice President

The Board to undertake a review and finalization of the draft of the Board decision made on February 25, 2016, of the incident involving the M/V JIANGMEN TRADER with San Joaquin River lighted marker #47 on June 27, 2015. Board to review and finalize a draft of the Board decision made on February 25, 2016, of the incident involving the M/V JIANGMEN TRADER. The Board may go into closed session for the review and finalization of the draft presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3).

Commissioner Livingstone requested that this item be discussed in closed session.

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20. Public comment on matters not on the agenda.

Vice President Connolly called for public comment on matters not on the agenda. There were none.

21. Proposals for additions to next month’s agenda.

Vice President Connolly stated that the Executive Director’s annual performance review be added to the April Board meeting agenda. He called for other additions to next month’s Board agenda. There were none.

Vice President Connolly called for a brief break, and for the Board to then enter into closed session after the break.

RECESS BEGAN: 10:30 A.M.
RECONVENED IN CLOSED SESSION: 10:35 A.M.
RECONVENED TO OPEN SESSION: 10:54 A.M.

Vice President Connolly reported out of closed session that the Board had directed Acting Board Counsel Tiedemann to make additional edits and to issue a final written determination of the Board’s finding of pilot error made on February 25, 2016, in the incident involving the M/V JIANGMEN TRADER with San Joaquin River lighted marker #47 on June 27, 2015.

22. Adjournment.

Vice President Connolly called for a motion to adjourn.

MOTION: Commissioner Long moved to adjourn the meeting. Commissioner Livingstone seconded the motion.

VOTE: YES: Connolly, Livingstone, Long and Schneider.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved. The meeting was adjourned at 10:56 a.m.



Allen Garfinkle, Executive Director