

Minutes	Monthly Board Meeting	Date:
Open Session		March 27, 2014
Location: Board Offices at 660 Davis Street, San Francisco, CA 94111	Page 1 of 12	

Board members present

RADM Frank Johnston, President, Public Member
 Dave Connolly, Vice President, Public Member
 John Schneider, Wet Cargo Industry Representative
 Capt. Joe Long, Pilot Member
 Capt. Steve Roberts, Pilot Member
 Ben DeAlba, Ex Officio Member designee of the Secretary of the California State Transportation Agency

Staff present

Allen Garfinkle, Executive Director
 Roma Cristia-Plant, Assistant Director
 Dennis Eagan, Board Counsel
 Kelly Dolcini, Staff Services Analyst
 Sigrid Hjelle, Office Technician

Others present

Capt. Pete McIsaac, Port Agent

Public present

Past President Knute Michael Miller, Pacific Merchant Shipping Association Vice President Michael Jacob, San Francisco Bar Pilot (SFBP) Capts. Steve Teague, Mike Sweeney, and David Chapman, SFBP Business Director John Cinderey, SFBP General Counsel Ray Paetzold, and Retired San Francisco Bar Pilot Capt Greg Waugh were among the public present.

1. Call to order and roll call

The meeting was chaired by President Johnston, who called the Board to order at 9:30 a.m. Staff Services Analyst Kelly Dolcini called roll and found that a quorum had been established.

Minutes	Monthly Board Meeting	Date:
Open Session		March 27, 2014
Location: Board Offices at 660 Davis Street, San Francisco, CA 94111	Page 2 of 12	

2. Approval of minutes of the February 14 and February 27, 2014 Board meetings

Board members were presented with the minutes of the February 14, 2014 meeting for approval.

MOTION: Commissioner Roberts moved to approve the minutes from the February 14, 2014 Board meeting with leave for staff to make non-substantive clerical changes. President Connolly seconded the motion

ACTION: The motion passed unanimously.

Next, Board members were presented with the minutes of the February 27, 2014 meeting for approval.

MOTION: Commissioner Schneider moved to approve the minutes from the December 13, 2013 Board meeting with leave for staff to make non-substantive clerical changes. Commissioner Long seconded the motion

ACTION: The motion passed unanimously.

3. Announcements

President Johnston had no announcements.

4. Board member activities

President Johnston reported that Past President Mike Miller would be heading off on a two month walk of the Camino Portugués.

He also announced that Mike Jacob had recently celebrated his 9th year as Vice President of the Pacific Merchant Shipping Association (PMSA).

Vice President Johnston attended a meeting of the Maritime Commerce Advisory Committee (MCAC) and reported that there will be an official opening of San Francisco's new cruise ship terminal on September 18, 2014.

<p>Minutes</p> <p>Open Session</p>	<p>Monthly Board Meeting</p>	<p>Date:</p> <p>March 27, 2014</p>
<p>Location: Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p>Page 3 of 12</p>	

San Francisco Bar Pilots Port Agent Capt. Pete McIsaac announced that there had been a pilot ladder failure in Torres Strait. He wanted it to serve as a reminder of how dangerous piloting is and that they risk their lives whenever they climb onto a ladder.

5. Executive Director’s report

Correspondence and activities since the last meeting:

Executive Director Garfinkle gave a report of the correspondence received by the Board since the February meeting:

On February 28, 2014, Board Staff received a notice that the Office of Administrative Law (OAL) had approved the proposed changes to California Code of Regulations section 213 that concern trainee application standards, effective February 27, 2014. On behalf of Board staff, he thanked all those Commissioners and stakeholders who worked so hard to edit these standards, and gave thanks to Board counsel, who successfully convinced OAL to provide an expedited effective date.

On February 28, 2014 Board staff received a copy of a letter to Board President Johnston from Mike Jacob, Vice President of PMSA, memorializing and expanding on an objection to non-noticed closed session of the Board on February 27, 2014 and possible violation of the Bagley-Keene Open Meeting Act.

On March 7, 2014 Board staff received a copy of a letter from Capt. Craig Reeder, a former inland pilot license holder, expressing concern that that his appeal of the Board decision of February 24, 2011 denying him a pension was not being addressed in a timely manner and in good faith.

On March 11, 2014 the California State Auditor released a report of a follow-up audit to the November 2009 audit of the Board.

On March 17, 2014, Board staff received a notice from USCG Sector San Francisco announcing plans to hold a Facility Safety and Security Day on April 3, 2014 at Coast Guard Island. Topics to be discussed include upcoming regulatory changes, marine terminal safety issues, casualty lessons learned, common deficiencies, security statistics, and cyber security.

Minutes	Monthly Board Meeting	Date:
Open Session		March 27, 2014
Location: Board Offices at 660 Davis Street, San Francisco, CA 94111	Page 4 of 12	

Board licensing:

Between the January and February meetings, Board staff renewed licenses for Captains Rocci, Wagner, Greig, Stultz, Roberts, Lingo, and Melvin.

Since the February meeting, staff had renewed licenses for Captains Pate, Bridgman, Aune, Lemke, and Martin.

Board Surcharges:

The Board received a check for \$126,087.14 for surcharges collected by the SFBP, which included the following:

Board Operations Surcharge: \$30,677.14

Continuing Education Surcharge: \$49,350.00

Trainee Training Surcharge: \$46,060.00

Legislative matters:

There has been no legislation affecting the Board since last meeting.

Contractual matters:

Assistant Director Roma Cristia-Plant gave a report of active and prospective Board contracts. She reported that the Board's contract for pension fiduciary calculations will expire on March 31, 2014. The California Highway Patrol (CHP), who performs various business services for the Board, conducted a request for quote process, seeking State of California certified small businesses, and received three bids, the lowest of which will be accepted by CHP:

Ghirardo CPA	\$33,480
James Marta	\$32,800
Mah and Associates	\$30,000.

She also reported that work has commenced on drafting an interagency agreement to secure medical fitness assessment services from the University of California San Francisco. UCSF is currently reviewing the terms and attempting to calculate actual cost and review the possibility of subcontracting for ancillary services such as laboratory analysis.

Minutes	Monthly Board Meeting	Date:
Open Session		March 27, 2014
Location: Board Offices at 660 Davis Street, San Francisco, CA 94111	Page 5 of 12	

Commission investigator contracts will expire June 30, 2014. A scope of work will be submitted by end of week.

The manned model training contract with Artelia Eau and Environment expires on June 30, 2014. CHP has suggested a two-step process to request interest and obtain information about the five entities that provide manned model training and then prepare a request for proposal. The process will take roughly eight to 10 months.

6. Port Agent’s report

Capt. McIsaac reported that there were three (3) pilots absent for medical reasons (AFMR) during the month of March.

He also reported that there were three (3) minimum rest period (MRP) exceptions on February 21, 2014, the shortest of which was 9.7 hours.

Capt. McIsaac reported that the P/V CALIFORNIA was taken out of service on March 19, 2014 to replace a malfunctioning temperature alarm on the starboard generator.

He next presented a report on billed vessel moves during the month of February. Compared to a three-year average, bar crossings were up 3.7% at 500; bay moves were up 19.9% at 113; river moves were up 22.6% at 52; total moves were up 7.0% at 611; and, gross registered tonnage was up 9.9% at 26,173,108 tons.

President Johnston requested a closed session at the end of the meeting to discuss the contents of the Port Agent’s confidential medical Report.

7. Pilot Evaluation Committee

The Pilot Evaluation Committee met on March 19, 2014. Both trainees are meeting or exceeding their benchmark requirements. Capt. Sam D’Aloisio has been promoted to the evaluation stage and will begin carrying and using a navigation laptop or “personal piloting unit (PPU).” The Pilot Trainee Exam development is on track for completion in May.

The PEC is working on the development of a guideline for trainees who are witness to or involved in a reported piloting incident. They will present it for Board review upon completion.

<p align="center">Minutes</p> <p align="center">Open Session</p>	<p align="center">Monthly Board Meeting</p>	<p align="center">Date:</p> <p align="center">March 27, 2014</p>
<p>Location: Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p align="center">Page 6 of 12</p>	

8. Reported safety standard violations

There have been no safety standard violations since the last meeting.

9. Reportable piloting events

On October 15, 2013, the ITB MOKU PAHU allided with the New York Slough Channel Marker #7. The 90-day deadline for presenting the report occurred on January 13, 2014. Mr. Garfinkle had received a request from Pilot’s Counsel for a deferment to the April meeting. For this reason, Mr. Garfinkle requested an extension to the April 24, 2014 Board meeting. President Johnston stipulated that this will be the last extension.

MOTION: Vice President Connolly moved to grant an extension to the April 24, 2014 Board meeting with the stipulation that no more extensions will be granted. Commissioner Schneider seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

On November 29, 2013, there was an interaction between the M/V ESSEX STRAIT and the M/T CHAMPION EXPRESS in the Port of Stockton. The M/T CHAMPION EXPRESS alleged gangway damage as a result of the interaction. The 90-day deadline for reporting on the incident occurred on February 27, 2014 but, due to priority demands on staff resources, Mr. Garfinkle requested an extension until the April 24, 2014 Board meeting.

MOTION: Commissioner Long moved to grant an extension to the April 24, 2014 meeting. Vice President Connolly seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

10. Pilot Fitness Committee

Chairman Miller reported that the Committee had met on March 24, 2014 and that he and Board staff are speaking to providers to determine the best way to approach the study.

There was a discussion of the contracting process and the difficulty of contracting with a private sector provider. Therefore the Committee is evaluating providers within state government or an allied governmental entity.

<p style="text-align: center;">Minutes</p> <p style="text-align: center;">Open Session</p>	<p style="text-align: center;">Monthly Board Meeting</p>	<p style="text-align: center;">Date:</p> <p style="text-align: center;">March 27, 2014</p>
<p>Location: Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p style="text-align: center;">Page 7 of 12</p>	

Chairman Miller provided a scope of work and requested Board approval so that work could begin on a market survey in order to get cost estimates for budgetary purposes.

Vice President Connolly expressed concern about the small size of the subject sample. Chairman Miller reported that the topic had been discussed and that all providers would prefer to have as large a sample as possible and all pilots would be asked to participate, although they could not be compelled to do so.

Commissioner Roberts expressed concern about one aspect of the scope of work that mandates actigraphy “shall be used.” Board Counsel Eagan explained that it was his impression that all providers preferred to use actigraphs to back up diaries because it provides a more accurate evaluation of work/rest than a diary alone. There followed a discussion of certain reservations regarding the use of actigraphy.

MOTION: Commissioner Roberts moved to approve with scope of work submitted by the Pilot Fitness Committee, as amended to say “may” rather than “shall” in the use of actigraphy. Vice President Connolly seconded the motion. Mr. Jacob commented that PMSA supports the study and would ask the Board to move forward with the contracting process.

ACTION: The motion passed unanimously on a voice vote.

11. Low Sulfur Fuel

There was no report.

12. Ad Hoc Committee on Blue Card Rates

Chairman Miller reported that the Committee had met on March 24, 2014 and resolved the “delay enroute” and “pilot carried away” charges. Chairman Miller presented the definitions to be received by the Board and for possible inclusion into SFBP published guidelines on fees.

MOTION: Commissioner Long proposed that the Board acknowledge receipt of the definitions. Commissioner Schneider seconded the motion. Mr. Jacob thanked the Committee for its work and asked for a clarification in the “pilot carried away” charge that any return expenses would be billed in addition to the charge and not included in it.

Minutes	Monthly Board Meeting	Date:
Open Session		March 27, 2014
Location: Board Offices at 660 Davis Street, San Francisco, CA 94111	Page 8 of 12	

Commissioner Connolly moved to acknowledge receipt of the definitions with amendments. Commissioner Schneider seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

Chairman Miller requested that the Committee, having resolved its mission, be discharged from the Board Committee roster.

MOTION: Vice President Connolly moved to discharge the Ad Hoc Committee on Blue Card Rates from the Board’s roster. Commissioner Roberts seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

13. Finance Committee

Commissioner Schneider reported that the Finance Committee had met on March 24, 2014 to look at fund projections and expenditure data from the last quarter of the fiscal year. There are 58 licensed pilots anticipated at the beginning of April, therefore, the mill rate would be reduced by two “one half shares” for each pilot under the statutorily allowed 60 (down to 58).

MOTION: Commissioner Schneider moved to reduce the mill rate from .0919 to .0918. Vice President Connolly seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

The discussion next moved to Board surcharges. The Committee reviewed the Pilot Commission Operations, Continuing Education and Trainee Training surcharges at their meeting and recommended that no changes be made.

MOTION: Commissioner Schneider moved to make no changes to any surcharges at this time. Commissioner Long seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

<p align="center">Minutes</p> <p align="center">Open Session</p>	<p align="center">Monthly Board Meeting</p>	<p align="center">Date:</p> <p align="center">March 27, 2014</p>
<p>Location: Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p align="center">Page 9 of 12</p>	

14. Implementation of Pilot Fitness Regulations

Executive Director Garfinkle reported that the fitness regulations will become law on April 1, 2014. Staff has been working on an interagency agreement (IA) with the University of California, San Francisco, Occupational and Environmental Health Clinic. A contract may not be in place by April 1, but staff requested Board authorization to enter into a contract for pilot fitness evaluations at \$150,000 per year. Commissioners agreed that the contract should move forward at the best pace achievable.

MOTION: Commissioner Long moved to grant Board staff permission to enter a contract for \$150,000 per year. Vice President Connolly seconded the motion, adding that he supported the contract and the Board moving forward in light of the State Auditor’s recommendations.

ACTION: The motion passed unanimously.

15. Designation of Trainee Training Program Exam Application Appeals Committee

Executive Director Garfinkle discussed the need for Board members to form a committee which will evaluate appeals of those applicants whose qualifications were deemed insufficient to take the exam upon their initial application. Commissioner Long volunteered to be the chairman of the committee. President Johnston and Commissioner Schneider will round-out the Exam Application Appeals Committee

16. Incident Review Committee – Incident report on the November 29, 2014 interaction involving the M/V ESSEX STRAIT and the M/T CHAMPION EXPRESS

Consistent with agenda item #9, the presentation of this report was extended to the April 24, 2014 Board meeting.

<p align="center">Minutes</p> <p align="center">Open Session</p>	<p align="center">Monthly Board Meeting</p>	<p align="center">Date:</p> <p align="center">March 27, 2014</p>
<p>Location: Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p align="center">Page 10 of 12</p>	

17. Incident Review Committee - Incident Review Committee report and response to Port Agent's Letter concerning Capt. Chapman

Mr. Garfinkle presented his correspondence to Port Agent Capt. Pete McIsaac regarding the March 13, 2012 letter from then-Port-Agent Capt. Capt Bruce Horton expressing concern with Capt. David Chapman's piloting. Mr. Garfinkle explained that the letter by Capt. Horton was not included in the M/T OVERSEAS TAMPA investigation, being conducted by the Incident Review Committee concurrent with the receipt of the letter, as Mr. Garfinkle felt that the letter and the allegations presented by it were too informal, anecdotal, and the content to prejudicial to be included in that investigation.

In the incident involving the M/T OVERSEAS TAMPA (February 18, 2012) Capt. Chapman was determined to have committed misconduct. Capt. Chapman was issued a letter of warning and ordered by the Board to take a course in bridge resource management. This was Capt. Chapman's only reported incident.

After the investigation and report concerning the M/T OVERSEAS TAMPA was complete, the IRC then considered Capt. Horton's letter. Investigation by the IRC found that the events described in the letter generally took place between two and 10 years in the past and were not reported as incidents at the time they occurred. There was too little information provided or available to do anything more than determine that Capt. Chapman had engaged in practices that drew skepticism from at least some other pilots in the past.

Mr. Garfinkle noted that Captain Chapman's reputation for piloting practices that are questioned by some of his peers is a reason to be concerned, but not for taking action at this time beyond what has been taken in the matter of the M/T OVERSEAS TAMPA incident. The letter of warning and the remedial training ordered by the Board and completed by Captain Chapman are responsive to the concerns that arise in connection to with the events of years past. Therefore, the IRC concluded that the Board has taken action consistent with Captain Horton's request for evaluation, and has completed its inquiries.

Mr. Garfinkle further explained that the Port Agent has a responsibility to report any pilot's risky behavior to the Board immediately. He noted that Captain Horton's letter was entirely appropriate but not timely. If there are serious concerns about a pilot's performance, they should not wait years to be aired. Under section 218(d)(6) of the Board's regulations, the Port Agent is required to report all accidents, groundings, collisions or similar navigation incidents involving vessels to which a pilot has been assigned, as well as suspected pilot misconduct, pilot violations of the Board's regulations or the Harbors and Navigation Code, and other matters for which a pilot may be disciplined by the Board.

<p>Minutes</p> <p>Open Session</p>	<p>Monthly Board Meeting</p>	<p>Date:</p> <p>March 27, 2014</p>
<p>Location: Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p>Page 11 of 12</p>	

18. Statutory Pension Plan Fiduciaries

Ms. Cristia-Plant announced that the fiduciary contract had been awarded to Mah and Associates. A meeting to discuss the terms of the contract has been scheduled and further details will be presented at the April Board meeting.

19. Report on Public Records Act Litigation

Board Counsel Eagan reported that the matter would be heard in San Francisco Superior Court on April 3, 2014.

The Chairman next directed the Board to items 22 and 23 for the benefit of the public.

22. Public Comment on Matters Not on the Agenda

There were no comments.

23. Proposals for additions to next month's agenda

There were none.

<p align="center">Minutes</p> <p align="center">Open Session</p>	<p align="center">Monthly Board Meeting</p>	<p align="center">Date:</p> <p align="center">March 27, 2014</p>
<p>Location: Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p align="center">Page 12 of 12</p>	

The Board then went into closed session to discuss agenda item #6 - the Port Agent's Confidential Report, and agenda items #20 and #21.

BEGIN CLOSED SESSION: 11:27 a.m.

20. Report on Fair Political Practices Commission decision to include Port Agent in Board's Conflict of Interest Code

21. Performance Evaluation of executive Director

END CLOSED SESSION: 12:30 p.m.

Following the closed session, there was a five-minute recess.

RESUME OPEN MEETING: 12:36 p.m.

It was noted by the Staff Services Analyst that a quorum was present.

24. Adjournment

There being no further business before the Board, the meeting was adjourned at 12:37 p.m.

Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini