

Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

660 Davis Street, San Francisco, CA 94111
Phone: (415) 397-2253 Fax: (415) 397-9463
E-mail: allen.garfinkle@bopc.ca.gov
On the web at: www.bopc.ca.gov



BOARD OF PILOT COMMISSIONERS BOARD MEETING MINUTES March 22, 2012 9:30 a.m.

OPEN MEETING:

1) Call to Order and Roll Call – President Miller

President Knute Michael Miller called the meeting to order at 9:33 a.m. Vice President Frank Johnston and Commissioners Steve Roberts, David Wainwright, John Cronin, and John Brooks were present, constituting a quorum. Business, Transportation and Housing Agency (BTH) Acting Secretary Brian Kelly was represented by BTH Deputy General Counsel Gabor Morocz, who participated by telephone from Sacramento. Members of staff present were Executive Director Allen Garfinkle, Board Counsel Dennis Eagan, and Staff Services Analyst Kelly Dolcini. San Francisco Bar Pilots (SFBP) Port Agent Capt. Bruce Horton also was seated at the Commission table. Commissioner Eric Osen listened to the meeting by telephone from a remote location but did not speak or otherwise participate in the meeting.

Before proceeding with other items on the agenda, President Miller noted that Governor Jerry Brown had reappointed Commissioner (and Vice President) Frank Johnston to another four-year term, and that on February 27, 2012 the California Senate had confirmed the appointment of Commissioner John Cronin on a vote of 36 yeas and 0 nays. President Miller congratulated both Commissioners.

President Miller went on to announce that Ms. Kelly Dolcini had been promoted to Staff Services Analyst, replacing Brian Vu who had transferred to the California Public Health Service. Executive Director Garfinkle announced that he would soon begin the process of identifying a new office technician to fill the job vacated by Ms. Dolcini on account of her promotion. President Miller congratulated Ms. Dolcini on her promotion.

2) Request Approval of Minutes – President Miller

President Miller requested approval of the minutes of the February 23, 2012 Board meeting. Executive Director Garfinkle announced that Commissioner Osen had requested certain additions and clarifications to the draft minutes previously circulated to Board members. The Executive Director identified those amendments for the Board's consideration. Vice President Johnston moved approval of the minutes as amended with authority to Board staff to make clerical, non-substantive changes. Commissioner Wainwright seconded the motion, which passed unanimously on a voice vote.

3) Announcements – President Miller

President Miller announced that Fair Political Practices Commission Form 700 is due to Board staff from all Commissioners, senior staff, and Board investigators not later than April 1, 2012. Staff Services Analyst Dolcini reported that she had received most, but not all of the financial disclosure forms. President Miller urged all who are required to file to do so as soon as possible.

President Miller announced that the Joint Sunset Review Committee met on March 14. Its agenda included votes on a proposal by the Committee Chair, Assemblymember Alyson Huber, to sunset the Board on January 1, 2022, and on adopting the staff report and its recommendations to the Committee and to the Legislature. The Committee did not take up these items at its March 14 meeting; however, they remain on the Committee's agenda and may be considered at a future time.

President Miller also reported that on March 13, 2012 he and Executive Director Garfinkle had met with representatives of Shea Labagh Dobberstein, CPAs, to discuss the surcharge audit report for calendar year 2011. The firm expects to issue the report soon.

4) Board Member Activities – Board Members

President Miller announced that he will attend a meeting of the Propeller Club of the Northern California Region on March 27th. He also announced that he had accepted an invitation to address a meeting of the West Coast Pilots Association which will be held in San Francisco April 11 through 13, 2012. He has been asked to speak about the Board's project to improve its medical oversight of its trainees and licensees.

Vice President Johnston announced that he had attended a meeting of the Marine Commerce Advisory Committee organized under the aegis of the Port of San Francisco. The Coast Guard made a presentation of the newly published rulemaking for the America's Cup events in which they have proposed parameters of the geographic areas in which the America's Cup trials and races will be held to minimize the disruption of water bourn commerce on the Bay.

Vice President Johnston, who is a member of the Commissioning Committee for the new U.S. Coast Guard Cutter STRATTON, announced that he and President Miller will attend the commissioning ceremony for the cutter at Coast Guard Island on March 31. The White House has announced that first lady Michelle Obama will attend.

5) Executive Director's Report – Executive Director Garfinkle

A) Correspondence and activities since the February 23, 2012 meeting.

1. On February 24, 2012 staff received a letter from Capt. Andrew P. Cook, Chevron regional marine superintendant expressing concern about the events surrounding a ship departing the Richmond Long Wharf, described as a near miss, and asked that the pilot involved not be assigned to ships at that facility until the event can be investigated.

Also on February 24, 2012, Board staff received a copy of a letter to Kathleen Eddy, Senior Counsel at the Office of Administrative Law from Mike Jacob, Vice President of PMSA

providing them with additional information in support of their petition for review of alleged underground regulations by the Board.

2. On February 28, 2012, Board staff received a copy of a letter from Darrell Steinberg, California Senate President pro tem, congratulating Commissioner Cronin on his appointment to the Commission by a vote of 36-0.

3. On March 1, 2012, the Executive Director received an invitation to the Annual West Coast Pilots Conference on April 11-13, to be held at the pilot station at Pier 9.

4. On March 5, 2012, the Executive Director received a letter from Pacific Merchant Shipping Association (PMSA) Vice President Mike Jacob requesting that the Board of Pilot Commissioners formally ask the SFBP to provide documents which summarize the annual data sets for each pilot of all Pilotage dispatch times, times aboard the vessels and minimum rest period violations for the past ten years. The reasoning provided for this request is that it is his belief that the issue of pilot fatigue cannot be properly evaluated without actual data such as work schedules, length of jobs undertaken, when pilots are on the bridge of vessels, and how pilots are scheduled and dispatched.

5. On March 6, 2012, Board staff received two copies of letters from Kathleen Eddy, Senior Counsel for the Office of Administrative Law to Mike Jacob, Vice President of PMSA informing him of their decision that OAL declines to accept either of their petitions regarding the Board's alleged use of underground regulations.

Also received on March 6th was a copy of a letter to Port Agent Bruce Horton from Capt. John Marquis, of OSG ship management, requesting that the pilot involved in the alleged near miss at Richmond Long Wharf on February 18 not be assigned to pilotage duties aboard any of OSG's vessels during the course of the investigation.

6. On March 9, the Executive Director received a copy of a letter from Marc Bayer of Tesoro, requesting that the pilot involved in the alleged near miss in Richmond not be assigned to any vessels calling at either Avon or Amorco, nor to any vessel of the nine vessels time chartered to Tesoro.

7. On March 13, the Executive Director received a letter from the Port Agent, Bruce Horton, detailing the requests that the pilot involved in the Richmond near miss not be assigned to certain vessels, and expressed his concern that the pilot in question may be engaging in unusual ship-handling practices and excessive risk taking. He went on to say he was sufficiently concerned to say that he believes a formal evaluation by the Board should be undertaken.

8. On March 19, staff received a notice and agenda for a meeting of the State Lands Commission on March 29, in Sacramento.

Also received on March 19 was a revised Rulemaking Manual (15th edition) from Anita Scuri, Supervising Senior Staff Counsel at the Department of Consumer Affairs.

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

Between the January and February Board meetings the Board Staff renewed three licenses to the following pilots: Captains Pinetti, Ruff, and Wagner.

Since the February Board meeting staff has renewed licenses for Captains Anderson, Aune, Lemke, Livingstone, Melvin and Pate.

C) Report on surcharges received by the Board.

For the month of February the Board staff received \$181,203.06 broken down as follows:

Board Operations: \$81,190.06

Continuing Education: \$61,425.00

Trainee Training: \$38,588.00

D) Report on legislative activities and contractual matters.

There are two bills before the legislature that are of interest to the Commission. The first is AB 2042 (Huber) and the second is SB 1408 (Blakeslee). The former was first read on February 23, 2012 and was referred to the Committee on Transportation on March 8, 2012. The latter was first read on February 27, 2012 and has not been acted on as of this date.

The Board is in the process of signing a contract for pilot pension fund fiduciary services with Ghirardo, Inc., the winning bidder and the previous provider of these services. Board staff is continuing efforts to move the San Francisco Bar Pilots training services contract through the appropriate channels in Sacramento and will be working with our partners at the California Highway Patrol, which provides administrative services to the Board, to sort out the details of back owed funds. In addition, Board staff has begun work on the continuing education Combination Course contract by providing California Maritime Academy with a detailed course syllabus with the hopes that they have the resources to provide the needed services.

6) Port Agent's Report – San Francisco Bar Pilots (SFBP) Captain Bruce Horton

A) Capt. Horton reported that billed vessel moves in February, when compared to a three year average were as follows: 479 bar crossings (down 3%), 81 bay moves (down 13.5%), and 38 river moves (up 37.1 %), making the total billed moves in February 598 (down 2.8%) with a gross registered tonnage of 23,959,351 (up 2%). When compared to February 2011, bar crossings are down 5.5%, total moves are down 3.7% and GRT is down 4%.

He also reported two minimum rest period exceptions in February, one with 10.6 hours rest and the other with 11.8 hours.

B) Captain Horton reported that one pilot, Capt. Morgan Hoburg, has been placed on medical disability leave by the BOPC.

Board members had the opportunity to review the confidential written report of pilots absent for medical reasons. President Miller inquired whether any Board member wished to go into closed session to discuss the report. There were no requests.

Port Agent Horton reported that he had received a letter of commendation for SFBP Capt. George Livingstone from Coast Guard Sector San Francisco for his “vigilant actions...outstanding initiative...and steadfast service”. While piloting the tank vessel MAPLE GALAXY, Capt. Livingstone alerted the Coast Guard of a sail boat maneuvering erratically, which, when investigated, led to the discovery of more than six lbs. of marijuana aboard the vessel. A request was made by Port Agent Horton that a copy of the letter of commendation be placed in Capt. Livingstone’s file. President Miller stated that without objection, a copy of the letter would be placed in Capt. Livingstone’s file. There were no objections.

Port Agent Horton also reported that the MSC FABIOLA entered the Bay and docked in Oakland. She carried four pilots, two e-pilots, one observing pilot, as well as the Captain of the Port. Several local media outlets were taken aboard the Pilot Boat DRAKE and driven to see her coming through the Golden Gate. After her departure, SFBP and the USCG will meet to debrief the event and do a risk assessment to determine whether to continue handling such large vessels in the Oakland Inner Harbor.

And lastly, Capt. Horton reported that on March 5, 2012 at approximately 2 a.m., Capt. Debbie Dempsey, a Columbia River Bar pilot, fell off the pilot ladder while disembarking from a freighter. She was in the water for approximately twenty minutes before being rescued. Capt. Horton noted that this event was a wake-up call for all pilots, and reinforced the need to always exercise extreme caution in the boarding process on the ocean.

7) Pilot Evaluation Committee (PEC) – Captain Horton for Capt. Nyborg

The Pilot Evaluation Committee met on March 21, 2012. In closed session, all five trainees were individually interviewed. The current trainees include Carr, Johnson, Manes, Lingo and Favro. Their time in the program ranges from six to 15 months. All trainees are progressing well at this time. The next PEC meeting is scheduled for April 18.

8) Reported Safety Standard Violations and Investigations – Executive Director Garfinkle

There were no violations since the last meeting.

9) Reportable Piloting Events – Executive Director Garfinkle

A.) Status report on the November 5, 2011 grounding of the M/V ASTON TRADER II on the San Joaquin River in vicinity of Light 31. Request for an extension from the Board to present this report at the March Board meeting.

Executive Director Garfinkle reported on the status of the IRC investigation and stated that he had been unable to complete the report in time for today’s meeting because of the press of other

Board business, the transfer of the Board's staff services analyst to the California Public Health Service, and because of the demands of preparing for Legislative budget hearings. Commissioner Wainwright moved to grant an extension to April 26, 2012. Commissioner Brooks seconded the motion. President Miller called for discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously on a voice vote, Vice President Johnston abstaining.

- B.) Status report of the November 28, 2011 soft grounding of the M/V TATJANA at berth 10/11 in Stockton. Request for an extension from the Board to present this report at the March Board meeting.

Executive Director Garfinkle reported on the status of the IRC investigation and stated that he had been unable to complete the report in time for today's meeting because of the press of other Board business, the transfer of the Board's staff services analyst to the California Public Health Service, and because of the demands of preparing for Legislative budget hearings. Commissioner Wainwright moved to grant an extension to April 26, 2012. Commissioner Roberts seconded the motion. President Miller called for discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously on a voice vote, Vice President Johnston abstaining.

- C.) Status report on the M/V OAKLAND's December 3, 2011 encounter with a small boat in the Sacramento River channel. Request for an extension from the Board to present this report at the March Board meeting.

Executive Director Garfinkle reported on the status of the IRC investigation and stated that he had been unable to complete the report in time for today's meeting because of the press of other Board business, the transfer of the Board's staff services analyst to the California Public Health Service, and because of the demands of preparing for Legislative budget hearings. Commissioner Wainwright moved to grant an extension to April 26, 2012. Commissioner Roberts seconded the motion. President Miller called for discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously on a voice vote, Vice President Johnston abstaining.

- D.) Status report of the December 30, 2011 damage to Richmond 8 pier during the docking of the M/V SOLAR WING.

Executive Director Garfinkle reported on the status of the IRC investigation and stated that he had been unable to complete the report in time for today's meeting because of the press of other Board business, the transfer of the Board's staff services analyst to the California Public Health Service, and because of the demands of preparing for Legislative budget hearings. Commissioner Wainwright moved to grant an extension to April 26, 2012. Commissioner Roberts seconded the motion. President Miller called for discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously on a voice vote, Vice President Johnston abstaining.

- E.) Status report of the M/V BERLIN TRADER interaction with the M/V GLOBAL PIONEER while approaching berth 19-20 in Stockton on January 19, 2012.

Executive Director Garfinkle reported on the status of the IRC investigation and stated that he had been unable to complete the report in time for today's meeting because of the press of other Board business, the transfer of the Board's staff services analyst to the California Public Health

Service, and because of the demands of preparing for Legislative budget hearings. Commissioner Wainwright moved to grant an extension to April 26, 2012. Commissioner Roberts seconded the motion. President Miller called for discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously on a voice vote, Vice President Johnston abstaining.

- F.) Status report of the M/V MULBERRY WILTON interaction with the M/T OVERSEAS TAMPA while passing Plains Terminal, Martinez, on January 27, 2012.

Executive Director Garfinkle reported on the status of the IRC investigation. The 90th day of the investigation coincides with the April 26, 2012 Board meeting, therefore no Board action was requested at this time.

- G.) Status report of the M/V THEOTOKOS (mast) allision with the Union Pacific Railroad Bridge on January 30, 2012.

Executive Director Garfinkle reported on the status of the IRC investigation. The 90th day of the investigation occurs after the April 26, 2012 Board meeting, therefore no Board action was requested at this time.

- H.) Initial report of the OVERSEAS TAMPA alleged near miss while departing Richmond Long Wharf Berth #2 on February 18, 2012.

Executive Director Garfinkle reported on the status of the IRC investigation. The 90th day of the investigation occurs after the April 26, 2012 Board meeting, therefore no Board action was requested at this time.

10) Rules and Regulations Committee – Commissioner Wainwright

Commissioner Wainwright reported that the Rules and Regulations Committee met jointly with the Pilot Fitness Committee on March 5 and March 15. The joint committee is currently revising forms related to the University of California San Francisco Medical Center Pilot Fitness Study. Commissioner Wainwright noted that the Committee expects to complete the regulation writing process within another five meetings.

11) Finance Committee – Commissioner Cronin

A) Commissioner Cronin announced that the Finance Committee met on March 19, 2012. He announced that the Committee had reviewed the audited financial statements of the San Francisco Bar Pilots Association for the year ended December 31, 2011. He noted that the ‘Audited Average Income Per Pilot’ for that year was reported to be \$451,336, with an average number of pilots that year equal to 55.35 pilots.

President Miller noted that the Board had received a copy of the SFBP audited financial statements and that they thus were a public document and available to members of the public from the Board. He also noted that the auditor’s report was addressed to the SFBP, not to the Board, and that accordingly, no action by the Board was required.

President Miller inquired of Finance Committee Chairman Cronin whether all Committee members had been present at the meeting. He responded that all members – himself, John Cinderey, Mike Jacob, and Commissioner Wainwright – were present for the March 19, 2012 meeting and all participated in it.

B) Review of Committee recommendations on the number of licensed bar pilots anticipated on April 1, 2012 and recommendation for possible adjustment to pilotage rates for the calendar quarter beginning on that date as specified in Harbors and Navigation Code section 1190(a)(1). **Possible Board action to specify bar crossing mill rate to be charged by licensees during the calendar quarter beginning April 1, 2012 pursuant to Harbors and Navigation Code section 1190(a)(1).**

Commissioner Cronin reports that the Finance Committee discussed the number of pilots on the roster (57) and determined that it will remain at or below 58 for the calendar quarter beginning April 1, 2012. He also noted that the Committee was presented with the amount of the audited annual net income of each pilot for the calendar year 2011. The Committee reviewed a worksheet where the mill rate for 60 pilots was reduced by an amount proportionate to one half of the last audited annual average net income for each pilot below 60 but not below 58. Therefore, the Finance Committee recommended lowering the mill rate from .0924 to .09107 as per Harbors and Navigation Code Section 1190(a)(1)(A), to reflect this.

After discussion, Vice President Johnston moved that the mill rate to be charged by licensees beginning with the calendar quarter beginning April 1, 2012 be .09107 per gross registered ton. Commissioner Cronin seconded the motion. President Miller called for additional discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously by a voice vote.

President Miller noted that this action did not require approval of the Department of Finance. However, formal notification to SFBP was necessary. He requested that the Executive Director notify SFBP of the change and document the notification. He also requested that the Executive Director review the quarterly notice by SFBP to its customers to ensure that the adjusted rate was duly noticed to them.

C) Review Committee recommendations on Board Operations Surcharge (currently 3%), Pilot Continuing Education Surcharge (currently \$105/move), Pilot Continuing Education Surcharge (currently \$11/trainee/move), and Pilot Vessel Surcharge (currently at 3.27 mills or \$0.00327). **Possible Board action to adjust any of the above surcharges if warranted.**

Committee Chairman Cronin stated that after examining the Board's operations fund balance and projections by the California Highway Patrol, the Committee had determined that the Board would have an excess reserve at the end of the current fiscal year. Accordingly, the Committee recommends that the Board reduce the operations surcharge to 1.5 percent of pilotage charges from the current rate of 3.0 percent.

After discussion, Commissioner Wainwright moved that the Board Operations Surcharge be reduced to 1.5 percent of all pilotage fees charged by the Board's licensees, effective July 1, 2012. Vice President Johnston seconded the motion. President Miller called for additional discussion by the Board. There was none. President Miller called for comment from the public. PMSA Vice

President Mike Jacob stated that PMSA supports the reduction in the Operations Surcharge. Whereupon the motion passed unanimously by a voice vote.

President Miller noted that the adjustment needed approval of the Department of Finance. Executive Director Garfinkle stated that he would immediately correspond with DOF to seek its timely approval.

Chairman Cronin stated that the Committee had also examined the balances in the Continuing Education and Trainee Training Funds and found them sufficient and not excessive. Accordingly, the Committee recommends that the Board make no changes in the surcharges for those funds. Board members agreed and took to action with respect to those surcharges.

D) Review of Pilot Evaluation Committee proposal to require fees for application and exam for the pilot training program applicant list. Review staff report on costs associated with exam. **Possible Board action to have Rules and Regulations Committee commence the regulation process to institute these charges.**

Commissioner Cronin reported that the Committee had reviewed cost figures prepared by the Board's Staff Services Analyst (Brian Vu) with respect to the June/July 2010 trainee selection exam and determined that imposition of the proposed \$1,000 application fee would not result in collection of fees in excess of the cost to the Board of administering the examination.

Member Morocz advised that the Rules and Regulations Committee could not commence rulemaking with respect to the application fee until the Finance Committee had prepared a report on all questions requiring resolution via rulemaking, and until the Board had voted to approve the policy issues involved, and directed the Rules and Regulations Committee to proceed.

The Board agreed to suspend consideration of the examination application fee until the Finance Committee submitted recommendations for Board action.

12) Pilot Fitness Committee – Commissioner Roberts

Commissioner Roberts reported that the Pilot Fitness Committee met on March 14, 2012 with a quorum of members. All agenda items were discussed. At the meeting, the committee discussed BTH Acting Secretary Traci Stevens' letter to the National Transportation Safety Board (NTSB) and found that the sense of the Committee is that the Board and SFBP are in compliance with the recommendations by the NTSB.

Commissioner Roberts also reported that there was not yet enough information to make a recommendation to the Board on how to improve on what is currently being done to mitigate fatigue related issues. A more thorough analysis of human factors should be performed.

13) Low Sulfur Fuel – Executive Director Garfinkle

Executive Director Garfinkle reported that there were 93 loss of propulsion incidents in 2011 with 32 of them attributable to fuel switching. Thus far in 2012 there have been 11 reported loss of propulsion incidents with three attributable to fuel switching. Commissioner Wainwright noted that the increased loss of propulsion incidents has had an impact on the expectations of pilots. He also

noted that the sulfur content was scheduled to be reduced again to .1% sulfur. Capt. Cowen, a representative of the California Office of Spill Prevention and Response, who was present in the audience, noted that the fuel being sold in California already meets these requirements, and thus the impact felt here may be mitigated.

14) Ad Hoc Working Group on Trainee Recruitment – Commissioner Wainwright

There was no report.

15) Continuing Education Committee – Commissioner Roberts

There was no report.

16) Pilot Power Committee – Commissioner Roberts

There was no report.

17) Ad Hoc Committee on Blue Card Rates – Vice President Johnston

There was no report.

18) Report of the Attorney General's Office – Board Counsel Eagan

Report on pending litigation and proposed settlement involving the Board stemming from the collision on November 7, 2007 of the M/V COSCO BUSAN with the San Francisco-Oakland Bay Bridge and such other legal matters that the Office of the Attorney General wishes to present to the Board.

Board Counsel Dennis Eagan reported that the Clerk of the Ninth Circuit Court of Appeals issued the Final Dismissal of the COSCO BUSAN litigation. This concludes all litigation with the exception that the district court will retain jurisdiction to monitor the consent decree.

The Board stood in recess at 11:10 a.m. and reconvened in open session at 11:24 a.m.

President Miller noted by inspection that all Commissioners had returned to the meeting and that a quorum was established.

19) Discussion, analysis, and determination of Board position on pending legislation, SB 1408 – Member Morocz

Member Morocz noted that this is a very large bill and the Governor has asked for an analysis. He went on to note that it is important to hear all Commissioners' perspectives.

Member Morocz asked that Board members submit written opinions on a draft of Senate Bill 1408, which seeks to add many items to the Harbors and Navigation Codes that already exist as Board regulations.

Board members agreed to continue the meeting to April 2, 2012 and submit any written opinions by March 28 to be discussed at the continuation.

20) Discussion, analysis, and determination of Board position on pending legislation, AB 2042 – Member Morocz

A) Report on March 14, 2012 vote held by the Joint Sunset Review Committee of the California Legislature.

During its March 14 meeting, the Sunset Review Committee did not have a quorum and was unable to make any significant decisions involving the Board.

B) Board discussion and possible Board action to direct staff to draft legislative analysis including Board position for submission to Agency.

Board members discussed AB 2042 as introduced and cited several reasons for opposition. Chief among these reasons was the fact that abolition of the Board would greatly reduce, if not completely erode, the level of expertise required to license, train, and oversee pilots and trainees.

After discussion, Commissioner Brooks moved that the Board direct staff to draft legislative analysis including a Board position in opposition to AB 2042 for submission to Agency. Commissioner Roberts seconded the motion. President Miller called for discussion by the Board and comment from the public. There was no additional discussion by the Board. PMSA Vice President Mike Jacob stated that while the PMSA board of directors has not taken a position on AB 2042 per se, PMSA always supports continuing oversight of the Board by the Legislature; however, Mr. Jacob noted that in his view transferring operational functions from the Board to BTH was not workable. Whereupon the motion passed unanimously on a voice vote.

21) Report on inquiry into pilotage charges for CMA CGM NORMA and other fees not expressly provided for by statute, together with opinion of counsel concerning validity of such fees –Board Counsel Eagan and Executive Director Garfinkle.

The report on the inquiry into non-statutory pilotage fees by the Executive Director and Board Counsel was submitted to the Board on March 20, 2012. Board Counsel noted that responses to the two questions posed by the Port Agent in his report of July 2011 are not included in the report. Board Counsel Eagan reported that the issue was first discussed at the rate hearing of April, 2011. A rate adjustment for ultra-large container vessels was recommended to the Legislature at that time but the SFBP assessed the charge before it was approved by the Legislature. The charges are still in dispute and the SFBP has reserved the right to back-bill when the matter is resolved. Commissioner Brooks stated a concern that all parties be given a chance to voice opinions and Board Counsel responded that staff had solicited comments for both pilots and industry. President Miller called for comments from the public and counsel for PMSA, Conte Cicala spoke, calling attention to his letter dated March 22, 2012, wherein he is critical of the report as being inadequate for its intended purpose. After discussion, the issue was tabled until the continued meeting on April 2, 2012.

22) Review of surcharge audit reports for the year ended December 31, 2011 prepared by Shea LaBaugh Dobberstein under contract with the Board. **Possible Board action to accept the reports in satisfaction of contract scope of work for 2011.**

President Miller reported that Shea Labaugh Dobberstein had not yet issued its report on the surcharge audit reports but likely will have done so by the April Board meeting.

23) IRC Incident Report on ASTON TRADER II November 5, 2011 grounding on the San Joaquin River in the vicinity of Light 31 – Vice President Johnston and Executive Director Garfinkle.

The Board granted an extension and the report was not presented.

24) IRC Incident Report on November 28, 2011 soft grounding of the M/V TATJANA at berth 10/11 in Stockton – Vice President Johnston and Executive Director Garfinkle.

The Board granted an extension and the report was not presented.

25) IRC Incident Report on M/V OAKLAND's December 3, 2011 encounter with a small boat in the Sacramento River channel – Vice President Johnston and Executive Director Garfinkle.

The Board granted an extension and the report was not presented.

26) IRC Incident Report on M/V SOLAR WING damage to Richmond Pier 8 during docking on December 30, 2011 – Vice President Johnston and Executive Director Garfinkle.

The Board granted an extension and the report was not presented.

27) Public Comment on Matters not on the Agenda

There were none.

28) Proposals for Additions to Next Month's Agenda

Commissioner Wainwright requested that the April meeting agenda include discussion of possible modification to current IRC processes and timeframe for issuing reports of investigations.

29) Adjournment

The Board agreed to continue the Board meeting on Monday, April 2, 2012 at 9:30 a.m. Accordingly, the Board recessed at 12:36 p.m.