

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 1 of 15</p>
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Board Members Present

RADM. Francis Johnston, President, Public Member
 Dave Connolly, Vice President, Public Member
 Capt. George H. Livingstone, Pilot Member
 Capt. Joe Long, Pilot Member
 Jennifer Ferrera Schmid, Public Member
 John Schneider, Wet Cargo Industry Member (joined the meeting at 9:40 a.m.)
 Benjamin De Alba, Assistant Secretary for Rail and Ports,
 representing the Secretary of the California State Transportation Agency

Board Members Absent

Vacant, Dry Cargo Industry Member

Staff Present

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

Public Present

Port Agent Peter McIsaac; Pacific Merchant Shipping Association (PMSA) Vice President Mike Jacob; San Francisco Bar Pilots (SFBP) Business Manager-General Counsel Ray Paetzold; SFBP Intern Andrew Manning; Knute Michael Miller; Rex Clack, Esq.; and representatives of the United States Coast Guard (USCG), Jennifer Stockwell, Paul Taylor, and Kurt Walker.

OPEN MEETING:

1. Call to Order and Roll Call – President Johnston

President Johnston called the meeting to order at 9:30 a.m. Staff Services Analyst Dolcini called roll and confirmed a quorum.

2. Review and approval of Board meeting minutes – President Johnston

Board action to approve Board meeting minutes from the meeting held on July 23, 2015.

Board members were presented with the minutes of the meeting held on July 23, 2015, for approval. Board Counsel Eagan requested minor clerical edits. There was no public comment.

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 2 of 15</p>
--	---	----------------------------

MOTION: Commissioner Livingstone moved to approve the minutes of the meeting held on July 23, 2015, as edited. Commissioner Schmid seconded the motion.

VOTE: Yes: Johnston, Connolly, Livingstone, Long, Schmid and Schneider
No: None.
Abstain: None.

ACTION: The motion was approved.

3. Announcements – President Johnston

Announcement of events affecting Board business since the last Board meeting.

President Johnston acknowledged and welcomed representatives of the USCG as well as SFBP intern Andrew Manning. He wished former Board President Mike Miller many happy returns on his upcoming birthday.

4. Board Member Activities – Board Members

Reports by Board members having Board business related activities since the last monthly Board meeting or planned prospectively.

Commissioner Livingstone reported that he made a presentation on August 24, 2015, to the Sandy Hook Pilots Association about ultra-large container vessels.

Vice President Connolly reported that he had attended a fundraiser the previous evening for the re-election of Congressman John Garamendi.

5. Directors' Report – Executive Director Garfinkle/Assistant Director Cristia-Plant

A) Correspondence and activities since the June, 2015 Board meeting.

Executive Director Garfinkle reported the following:

- On July 20, 2015, Board staff received a Public Records Act request from the Union Pacific Railroad for any and all information pertaining to the September 8, 2011, collision of the TUG MARSHALL FOSS with the Union Pacific Railroad Benicia-Martinez Bridge fendering while assisting with the tow of the S/S POINT DEFIANCE. Board staff responded on July 29, 2015, in both electronic and hard-copy format.
- On July 24, 2015, Executive Director Garfinkle received a letter from Norman J. Ronneberg, Jr., who is acting as legal counsel to Capt. Rene Peinado, requesting a

<p>Meeting Date: August 27, 2015</p>	<p align="center">Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p align="center">BOARD MEETING MINUTES</p>	<p align="center">Page 3 of 15</p>
--	---	---

copy of the entire certified reporter's transcript of the April 16, 1996 hearing wherein Capt. Peinado and counsel for the Board agreed to the terms of the settlement of Peinado v. Board of Pilot Commissioners. Board staff responded and provided the copy of the transcript in the Board's file, which is missing pages 1 and 2, but contains the entire transcript of the hearing.

- On July 29, 2015, Executive Director Garfinkle sent a letter to all licensees concerning medical billing issues which have arisen since the inception of the contract for pilot fitness determinations with the University of California, San Francisco Campus (UCSF).
- On August 3, 2015, Board staff received notice of a State Lands Commission Northern California Customer Service meeting for Maritime Environmental Stakeholders, which was held at the California Maritime Safety and Security Center in Richmond, California. The core of the agenda concerned ballast water management. Board staff did not attend the meeting.
- On August 7, 2015, Executive Director Garfinkle received a letter from SFBP Capt. Carl Martin Jr., concerning his view of the efficiency, value, and effectiveness of the training he received during the manned model training course at Artelia Eau & Environment (Port Revel). Executive Director Garfinkle stated Capt. Martin's letter conveyed concerns related to jet-lag, repetitiveness of the training material, and difficulty understanding the accents of the instructors, and expressed his interest in attending a domestic manned model facility.
- On August 20, 2015, Board staff received a copy of a letter from PMSA to the Chairman of the Senate Appropriations Committee, Ricardo Lara, wherein PMSA opposes Assembly Bill 1432 unless amended. A copy of the letter was included in Board members' binders.
- On August 21, 2015, Board staff received Marine Safety Information Bulletin (MSIB) 15-07, forwarded by the Marine Exchange. The bulletin discussed a safety issue involving commercial fishing vessel work lights creating a potential navigational hazard for mariners directing the movements of large ships in or near the offshore approaches to San Francisco Bay.
- Also on August 21, 2015, Board staff received a copy of a letter from Kevin De Leon, the President Pro Tempore for the Senate Rules Committee, congratulating John Schneider on his reappointment to the Board on August 17, 2015, by a unanimous vote of 38-0.
- Also on August 21, 2015, Board staff received a copy of the California Code of Regulations Section 237(d) data from the SFBP for the period of January 1, 2015 to June 30, 2015.

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 4 of 15</p>
--	---	----------------------------

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

Executive Director Garfinkle reported that there were no license renewals between the June and July meetings. Since the July Board meeting, he reported staff renewed the licenses of Capts. Coney, Merritt, Laakso, Boriolo, and Burger.

C) Report on Board surcharges.

Executive Director Garfinkle reported the Board received a check from the SFBP for \$87,467.66 for July 2015 revenues as follows:

- Board Operations Surcharge: \$35,562.66
- Pilot Continuing Education Surcharge: \$ 6,705.00
- Trainee Training Surcharge: \$45,200.00

D) Report on legislative activities and contractual matters.

Assistant Director Cristia-Plant reported on the following:

- She announced that the bar pilotage rate increase bill, Assembly Bill 1432, passed out of the Senate Appropriations Committee on August 24, 2015, with six ayes and one nay vote, and is scheduled to be heard on the Senate Floor in the near future.
- The State Controller's Office apologized for the delay on its end in preparing a draft of the interagency agreement for the revenue auditor work and explained that the delay has been due to staff turnover and that a draft can be expected in the near future.
- Regarding the manned model request for proposals (RFP), staff met with Capts. Livingstone and Long to discuss the manned model request for qualifications point scoring criteria.
- Staff is currently working to renew the interagency agreements it has with the California Maritime Academy (CMA) for the Pilot Trainee Training Program examination support and pilot continuing education services.
- She also provided the Board with an update on staff's efforts involving various rulemaking activities.

Commissioner Long requested an update on when the next Pilot Trainee Training Program exam would take place. He reported that through discussions with the Pilot Evaluation and Pilot Power Committees, projections were made regarding pilot retirements in the coming years and it was determined that an exam should be held sooner rather than later. He indicated that he understood that it could not be done during summer 2016 due to budgetary issues, but requested that inquiries be made with CMA about whether they could host an exam any other time during the year.

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 5 of 15</p>
--	---	----------------------------

Vice President Connolly addressed Mr. Jacob regarding the letter dated August 20, 2015, that PMSA sent to the Chairman of the Senate Appropriations, and opined that the use of the word “arbitrary” in reference to the Board’s decision to increase pilotage rates may not be an appropriate descriptor of the Board’s actions since the Board conducted hearings over a two-day period and reviewed hundreds of pages of evidence prior to making a rate increase decision. He suggested that maybe the process was not a negotiation, but in his opinion, the process was not arbitrary. Mr. Jacob stated that his use of the term in the letter referred to the Board’s decision, not the process, since he believed the rate increase was not based upon any projected calculations of average annual net revenue to the pilots, to which Vice President Connolly responded that they would have to disagree on that point.

Both President Johnston and Commissioner Long also commented on the PMSA letter. President Johnston stated that he was offended by the letter, and Commissioner Long stated that he believed the rate hearing considered specified projected pilot net revenue data. Mr. Jacob responded that there was no disputing the Board conducted the requisite rate hearing, but he believed there was no evidence to support the rate increase approved by the Board.

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

A) Monthly report on pilot availability and absences.

Port Agent Capt. McIsaac reported that two pilots—Captains Chapman and Kelso—have been absent this month, or a portion thereof, for medical reasons.

B) Monthly report on SFBP ship piloting business activity.

Port Agent McIsaac reported that the SFBP continually monitors the dispatch list for possible minimum rest period exceptions, and identified the variety of mitigating measures employed if a rest period exception is likely to result during a rest period of less than ten hours. He reported that the SFBP currently has 58 licensed pilots, that there were 15 minimum rest period exceptions in July. There was no Pilot Vessel report.

Port Agent McIsaac reported the following vessel move data when compared to a three-year average:

- Bar Crossings 538 moves/-12.1%
- Bay Moves 203 moves/+42.1%
- River Moves 52 moves/+29.0%
- Total Moves 793/-1.9%
- Gross Registered Tons (GRT): 28.4 million/-9.1% year to date (YTD)

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 6 of 15</p>
--	---	----------------------------

He further reported that when comparing year-to-date (YTD) piloting activity in 2015 to 2014, total moves were down 5%, and GRT was down 13.5%.

He reported that continuing labor issues at the Port of Oakland have resulted in shipping delays and additional work dispatching pilots to avoid minimum rest period exceptions.

Port Agent McIsaac also informed the Board of the untimely death of American Pilots' Association (APA) President Mike Watson, and that he was selected to be the interim President of the APA for the remainder of Mr. Watson's term. He reported his APA duties will take approximately 25% of his time, and that he will use his Port Agent vacation time when conducting APA business.

Capt. McIsaac responded to a query from Commissioner Schmid concerning the spike in MRP's, stating that factors contributing the rise of MRPs during the months of June and July were related to pilots being off watch for training, an increase in river moves, and increased cruise ship traffic.

Vice President Connolly requested further explanation on why total bar crossings and GRT are down if imports and exports are up, and asked if this is somehow related to more ultra large container traffic. Port Agent McIsaac explained the months of January through March were quirky this year, and noted that billed vessel moves are reported on a three-year average, and that annual movement data may provide a better picture of shipping activity trends. Vice President Connolly requested the Port Agent provide additional vessel move data in the future to provide a better visualization of shipping patterns.

C) Monthly confidential written report of pilots who have been absent for medical reasons (AFMR) presented to Board. 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.

7. Pilot Evaluation Committee – Captain Einar Nyborg

Report on the August 19, 2015, Pilot Evaluation Committee meeting.

Chairman Nyborg was not present at the meeting, and Port Agent McIsaac gave the Pilot Evaluation Committee (PEC) Chairman's report on his behalf. He reported that trainees' time in the Pilot Trainee Training Program ranges from 6-12 months and they are all progressing well at this time. Trainee Drue Kasper has entered the evaluation phase of the program and

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 7 of 15</p>
--	---	----------------------------

will begin at least three months of handling ships with little or no input from his supervising pilot unless safety requires it.

Two new trainees will have their orientation on September 2, 2015. Capt. Dowdle will also attend the orientation in anticipation of his possible election as Chairman of the PEC following Capt. Nyborg's completion of his second term in February 2016.

Port Agent McIsaac stated the PEC considers eight trainees to be maximum number of trainees given the Committee's administrative abilities, and that no new trainees should be added to the program for at least 4 months. He reported the PEC is ready to assist in the next program entrance exam, and believes it is crucial to hold the exam before summer 2017, as this would result in the earliest possible graduation to pilot in fall or winter 2018. He further reported the current PEC members have a lot of experience in the exam process and could be of great help in the design of the exam were it to happen in 2016, and that by 2017, the entire PEC will be termed out and replaced by members with no exam preparation experience.

Port Agent McIsaac indicated that the Chairman's report also contained a personal statement about his experience at Port Revel for manned model training. He stated that "even after five trips to Port Revel he is continuing to learn and build his skillset. Each time he has returned, Port Revel had used suggestions from previous classes to improve their facilities and continue to meet the evolving needs of the Board and SFBP.

Executive Director Garfinkle responded to a question from Vice President Connolly, and confirmed that the regulations authorize him to dismiss a trainee from the program during the first 12 months for no cause. He stated that he meets with all trainees around the 11 month mark to review the trainee's progress in the program and to obtain feedback about the program from the trainee. Commissioner Long also responded to a question from Vice President Connolly, and confirmed that the attrition rate for pilots is lower than ever, and that the Pilot Power Committee is keeping a close tab on retirements and upcoming need to add more trainees to the program.

8. Reported safety standard violations – Executive Director Garfinkle

A report on reported safety standard violations since the last Board meeting. (Reports received between the issuance of this notice and the meeting will be reported on.)

Executive Director Garfinkle reported there have been no safety standard violations since the last meeting.

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 8 of 15</p>
--	---	----------------------------

9. Reportable Piloting Events – Executive Director Garfinkle

- A) **Status report on the passage of the M/V ROOK to Stockton on March 22, 2015, where, once docked, the vessel was detained by the USCG Port State Control for lacking navigation charts for the passage from New York Point to Stockton. Possible Board Action to grant an extension to present the M/V ROOK Incident Review Committee report to the September Board meeting. If an extension is requested, the delay in presenting the report will be due to the Board staff workload.**

Executive Director Garfinkle reported that the M/V ROOK did not have the proper charts for their transit. USCG contacted him about the event. He further reported that the Investigation Review Committee (IRC) has determined that there was clearly no pilot error, but that there are still outstanding issues that need to be addressed related to this event. He requested an extension of the IRC report to the September meeting.

President Johnston conveyed his dismay at the large number of extension requests and the amount of time it has taken to complete IRC reports. Executive Director Garfinkle responded that while he appreciates President Johnston's concern and acknowledges it is a valid one, the IRC reports require thorough and thoughtful consideration to complete, and that the IRC should not abbreviate reports the Board based solely on a statutory time limit.

MOTION: Vice President Connolly moved to grant an extension for submission of the M/V ROOK IRC report. Commissioner Long seconded the motion.

VOTE: Yes: Johnston, Connolly, Livingstone, Long, Schmid and Schneider
No: None.
Abstain: None.

ACTION: The motion was approved

- B) **Status report on the grounding of the USNS MATTHEW PERRY (T-AKE 9) on March 20, 2015 during a flat tow from berth 4E at BAE Systems Ship Repair Facility to their Dry Dock #2. Possible Board Action to grant an extension to present the USNS MATTHEW PERRY Incident Review Committee report to the September Board meeting. If an extension is requested, the delay in presenting the report will be due to the Board staff workload.**

This report was presented under item 19.

- C) **Status report on the passage of the M/V FUJI GALAXY and the M/V CS SARAFINA on April 28, 2015 when the M/V FUJI GALAXY was underway into the Port of Stockton and the M/V CS SARAFINA, moored at berth 10, Port of**

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 9 of 15</p>
--	---	----------------------------

Stockton suffered damage to her gangway. Possible Board Action to grant an extension to present the M/V FUJI GALAXY Incident Review Committee report to the September Board meeting. If an extension is requested, the delay in presenting the report will be due to the investigation being incomplete.

Executive Director Garfinkle requested an extension on the report of the IRC investigation into the M/V FUJI GALAXY, and stated that the IRC is still actively conducting the investigation.

MOTION: Vice President Connolly moved to grant an extension for submission of the M/V FUJI GALAXY report.. Commissioner Schneider seconded the motion.

VOTE: Yes: Johnston, Connolly, Livingstone, Long, Schmid and Schneider
No: None.
Abstain: None.

ACTION: The motion was approved

D) Initial report of the allision of the M/V JIANGMEN TRADER with San Juan River lighted marker 47 on June 27, 2015.

Executive Director Garfinkle reported that this incident is still under investigation, and that no extension was necessary as the 90th day referenced in statute occurs after the September Board meeting.

10. Pilot Fitness Committee - Chairman Miller

A) Report on the July 22, 2015, meeting of the Pilot Fitness Committee.

Committee Chairman Miller reported that the Committee had met on August 25, 2015, and discussed the status of the fitness contract with the University of California, San Francisco Campus. He reported that implementation of the new pilot fitness regulations is going well, that there have been a few outstanding contract implementation issues being worked on, and there may be a need to modify regulations in the future to address the physician's ability to issue an interim fitness determination.

B) Review, discuss, and possibly approve proposed clarifications to the scope of work originally proposed by San Jose State University Research Foundation (SJSURF) for the pilot fatigue study. Possible Board action to approve proposed clarifications to the scope of work and to direct staff to begin to contracting process with SJSURF based upon those clarifications.

<p>Meeting Date: August 27, 2015</p>	<p align="center">Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p align="center">BOARD MEETING MINUTES</p>	<p align="right">Page 10 of 15</p>
--	---	---

Chairman Miller reported that Dr. Alan Hobbs and Dr. Erin Flynn-Evans were present at the Committee meeting on August 25, 2015, and that SJSURF has proposed to (i) add a new researcher, Kevin Gregory, to the study team, (ii) clarify that Dr. Flynn-Evans with the National Aeronautics and Space Administration (NASA) will not be paid through the Board's contract with SJSURF due to state contracting issues, but will still remain a primary researcher with oversight of other study team researchers. He concluded his report commenting that the clarifications proposed by SJSURF to the study scope of work are more cosmetic than substantive, and that the Committee recommends to the Board to approve the clarifications to the SJSURF proposal and instruct staff to continue the contracting process.

Vice President Connolly expressed his gratitude that NASA will continue to be affiliated with the study, and that Mr. Gregory's background evidences significant experience in fatigue issues. Commissioner Livingstone seconded those comments. Assistant Director Cristia-Plant informed the Board that Mr. Gregory has a previous affiliation with the CMA, was one of CMA's instructors for the SFBP pilot continuing education training fatigue module, and stated that CMA has confirmed that he currently does not have a contractual relationship with CMA.

MOTION: Commissioner Long moved to approve the proposed clarifications and direct staff to begin the contracting process with SJSURF. Vice President Connolly seconded the motion.

VOTE: Yes: Johnston, Connolly, Livingstone, Long, Schmid 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, including those suspected to be due to low sulfur fuel issues arising since last meeting.

Executive Director Garfinkle reported that there was no Harbor Safety Committee meeting in August, and that he will report on the loss of propulsion incidents next month.

12. Board Rulemaking status report – Executive Director Garfinkle/Assistant Director Cristia-Plant

Report on the status and progress of various Board rulemaking efforts, including:

- A) Section 222 – Conflicts of Interest (add Port Agent Conflict Of Interest regulation)**
- B) Section 213 – Pilot Trainees (add exam fee and cleanup of regulations)**

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 11 of 15</p>
--	---	-----------------------------

- C) Section 218 – Duties of Port Agent (amend requirement for assignments of pilots with under 12 and under 18 months’ experience)**
- D) Section 211.5 – Commission Investigator Minimum Standards (amend minimum qualifications)**
- E) Section 215 – Pilot and Inland Pilot Training (add fatigue management and navigation in low/restricted visibility training and clean-up)**

Assistant Director Cristia-Plant reported that staff has substantially completed the rulemaking documents related to amendments to regulations §§ 213, 218, 211.5 and 215, and that since additional technical amendments were identified by staff, this omnibus rulemaking activity should be reviewed by the Rules and Regulations Committee and the Board before proceeding with the rulemaking action. Commissioner Long requested a meeting of the Rules and Regulations Committee to discuss this regulation package, and reported that the Committee will meet on September 17, 2015 at 10:30 a.m.

Assistant Director Cristia-Plant also reported that the rulemaking documents to amend section 222 of the regulations are still being prepared as directed by the Board and should be completed in the near future.

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

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.

Board Counsel Eagan reported that no date has been set for oral argument on the case in the Court of Appeal.

14. Report on Board of Pilot Commissioners vs. Fair Political Practices Commission litigation initiated by the Board on March 3, 2015 – Executive Director Garfinkle/Assistant Director Cristia-Plant

Progress report on Board of Pilot Commissioners vs. Fair Political Practices Commission. The Board may go into closed session to discuss with the Executive Director/Assistant Director, any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.

Executive Director Garfinkle reported the hearing in the Sacramento Superior Court has been delayed to September 25, 2015.

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 12 of 15</p>
--	---	-----------------------------

15. Report on litigation, Craig E. Reeder vs. State Board of Pilot Commissioners initiated by Captain Craig Reeder on December 17, 2014 – Board Counsel Eagan

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

Board Counsel Eagan reported that oral argument before the Superior Court of California has been re-scheduled at the request of the Court to September 30, 2015.

16. Report on Stipulation for Settlement and Mutual Release in Peinado vs. Board of Pilot Commissioners, Case No. 964430 – Board Counsel Eagan

Report regarding the Stipulation for Settlement and Mutual Release in Peinado vs. Board of Pilot Commissioners, Case No. 964430. 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).

Board Counsel Eagan stated that in early July, staff sent the transcripts of the 1996 settlement that included the then Board Counsel’s oral reading into the record of the settlement with Captain Peinado, the critical portion of which provided a clear explanation of the hours needed as master for tugs and deep sea assignments. He further reported that later that month, the Board received a request from Captain Peinado’s attorney for a complete copy of the certified transcripts, and that the Board has provided to the attorney a copy of the transcript in the Board’s file. Executive Director Garfinkle confirmed Board Counsel’s assertion that the Board went above and beyond to locate an original complete copy of the transcript, but that it was not available. President Johnston confirmed that Captain Peinado did not appear for the July Board meeting even though his presentation was on the agenda.

17. Board discussion of best practices in maritime safety – Vice President 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 development of policies and procedures.

Vice President Connolly reported that the Pilot Safety Committee met in June and discussed various safety issues related to the USCG report on the T/V OVERSEAS REYMAR. Commissioner Livingstone reported that he and Board staff met with CMA combination course training staff in July to discuss updating the restricted visibility training, and that a second meeting on this topic will be scheduled in mid-September. Vice President Connolly stated the importance of including abnormal/unforeseen events in the restricted visibility

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 13 of 15</p>
--	---	-----------------------------

module. Port Agent McIsaac responded that abnormal event training is already included in both the combination course and the manned model training.

Vice President Connolly reported the Pilot Safety Committee will meet jointly with the Continuing Education Committee on September 4, 2015, to discuss the restricted visibility module of the combination course, and will report to the Board at its September meeting.

18. Incident Review Committee report on the M/V ROOK – President Johnston

An extension was granted to this investigation under item 9.

19. Incident Review Committee report on the grounding of the USNS MATTHEW PERRY (T-AKE 9) – President Johnston

Prior to the discussion of item 19, President Johnston recused himself from his duties as President in order to serve in his capacity of Chairman of the IRC. He announced that the Board would go into recess while the room was rearranged for the presentation and Vice President Connolly would reconvene the meeting as Acting President.

RECESS: 10:47 a.m.

RETURN: 11:07 a.m.

Acting President Connolly called the meeting back to order at 11:07 a.m.

Chairman Johnston introduced Executive Director Garfinkle to make the presentation on behalf of the IRC.

Executive Director Garfinkle reported that:

- On March 23, 2015, as the USNS MATTHEW PERRY was preparing to shift to the dry dock at BAE Systems assisted by two tugs, as it was without rudder or propeller and running on generator power. The only aid to navigation available in the area was a privately maintained buoy marking some shoaling in the area.
- The Pilot, Capt. David Weiss, assisted by the tugs and ship's officers, guided the vessel clear of the buoy and attempted to turn starboard when the ship ran aground. He used the tugs to push the ship out of the mud and complete the shift.
- Personnel at BAE systems later confirmed that the buoy had moved between 80 and 150 feet out of place sometime between October, 2014 and March, 2015.
- The IRC concluded the Capt. Weiss had prepared for and planned the route properly and that his tug placement was appropriate. Contact with the bottom was likely caused by a reliance on the buoy to properly mark the shoal danger, but there was no damage to the ship as a result of the temporary grounding. While Capt. Weiss' reliance on the buoy may have been misplaced, it does not appear unreasonable.

<p>Meeting Date: August 27, 2015</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 14 of 15</p>
--	---	-----------------------------

- BAE Systems has a vested interest in ensuring that the buoy is properly placed and is in the best position to regularly check and correct its position.
- The recommendation of the IRC was to close the case with a finding of no pilot error and to recommend that BAE Systems develop a procedure for regularly ascertaining whether the Pier 5 Shoal Buoy is accurately positioned, and to develop a plan to ensure effective communication of this information to the pilots and involved ship personnel.

Both Commissioner Long and Executive Director Garfinkle responded to a request from Commissioner Schneider for additional explanation of the turns in and out of that particular dock. A discussion ensued regarding the possibility of soundings and the reliability of the tools available to pilots versus navigating by sight when necessary. Commissioner Connolly inquired about the pilot's aids to navigation such as the portable pilot unit (PPU). Executive Director Garfinkle stated that the PPU was not a factor and that the resolution of the PPU was no greater than the published chart, and Commissioner Long confirmed that the edge of the pier is also an aid to navigation. Acting President Connolly stated his agreement with the recommendation, especially the pro-active recommendation to BAE Systems.

Capt. Weiss' attorney, Rex Clack, Esq. stated that the IRC report was very thorough, and that he had nothing to add.

MOTION: Commissioner Long moved to accept the Committee's recommendation to close the case with a finding of no pilot error. Commissioner Livingstone seconded the motion.

VOTE: Yes: Connolly, Livingstone, Long, Schmid and Schneider
No: None.
Abstain: Johnston.

ACTION: The motion was approved

President Johnston then resumed as Chairman of the meeting.

20. Public comment on matters not on the agenda.

There were no comments

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

Agenda items for the Rules and Regulations and the joint Pilot Safety/Continuing Education Committee meetings will be added to the September agenda.

Meeting Date: August 27, 2015	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 15 of 15
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22. Adjournment.

MOTION: Vice President Connolly moved to adjourn the meeting. Commissioner Schmid seconded the motion.

VOTE: Yes: Johnston, Connolly, Livingstone, Long, Schmid and Schneider

No: None.

Abstain: None.

ACTION: The motion was approved and the meeting was adjourned at 11:35 a.m.



Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini and Roma Cristia-Plant