

Minutes	Monthly Board Meeting	Date:
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Board members present

RADM. Francis Johnston, President, Public Member
 Dave Connolly, Vice President, Public Member
 Capt. Joe Long, Pilot Member
 Capt. Steve Roberts, 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

Board members absent

Vacant, Public Member
 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 Capt. Peter McIsaac; Pacific Merchant Shipping Association (PMSA) Vice President Michael Jacob; San Francisco Bar Pilots (SFBP) Capt. Paul Ruff, Capt. George Livingstone, Capt. Einar Nyborg, and Capt. Bill Greig; SFBP Business Director/General Counsel Raymond Paetzold; Jennifer Schmid; Rex Clack; and, Knute Michael Miller.

1. Call to order and roll call

President Johnston called the meeting to order at 9:30 a.m. Staff Services Analyst Kelly Dolcini called roll and found that a quorum was established.

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2. Approval of minutes of the December 18, 2014, Board meeting

Board members were presented with the minutes of the December 18, 2014, meeting for approval.

MOTION: Vice President Connolly moved to approve the December 18, 2014 Board meeting minutes. Commissioner Long seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

3. Announcements – President Johnston

There were no announcements.

4. Board Member Activities

There were no reports.

5. Executive Director’s report

Correspondence and activities since the last meeting.

Executive Director Garfinkle gave a report to the Board as follows:

- Board staff received an article on January 6, 2015, documenting the Port of Stockton’s record-setting traffic year. The article indicated that port handled 230 ships, up 25% from the previous record of 182 set in 2012. Richard Aschieris, Port Director, noted that steel imports have made the biggest difference. The article further highlighted 82 ships loaded cargo for export and 148 ships were importing cargo.
- Also on January 6, 2015, the Board staff received an article detailing contract negotiations, resulting in a stalemate between the International Longshore and Warehouse Union (ILWU) and Pacific Maritime Association (PMA). The article indicated the ILWU has been working without a contract since July 1, 2014, and that both sides have requested federal mediation.

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- On January 8, 2015, the Port Agent supplied Board staff with a photo depicting the widespread water hyacinth growth in the San Joaquin River ship channel and the Port of Stockton. During the Army Corps of Engineers report to the Harbor Safety Committee, they noted that one of their debris clearing boats had been sent upriver to clear the growth.
- Also on January 8, 2015, Board staff received a copy of the Condition and Valuation Survey/Appraisal Report on the P/V GOLDEN GATE. The survey listed the fair market value at \$2,120,000.00 and replacement value at \$4,000,000.00.
- Also on January 8, Mr. Garfinkle attended a Harbor Safety Committee meeting in Richmond at the new California Maritime Academy (CMA) Maritime Safety and Security facility.
- On January 9, 2015, the Governor released the 2015-2016 proposed State budget, with the Board's budget set at \$2.379 million. Mr. Garfinkle apprised the Board that it appears that the Board's budget was increased by \$200,000 from the current fiscal year. However, the increase principally covers expenses owed by the Board from the 2013-2014 fiscal year, including charges for prior work performed by the Office of Administrative Law and the California State Auditor.
- On January 12, 2015, Executive Director Garfinkle was invited to give a presentation to the Assembly Transportation Committee at its informal hearing on February 2, 2015 regarding the core functions and programs of the Board.
- On January 14, 2015, Board staff received notice that SFBP Capt. Randall Pinetti has been named master of the S/S JEREMIAH O'BRIEN.
- On January 15, 2015, Board staff received a letter dated January 12, 2015, from Board Counsel Dennis Eagan providing reasons and legal authority for the Board to meet in closed session to receive legal advice from the Attorney General regarding Reeder v. Board of Pilot Commissioners, an item on today's agenda.
- On January 16, 2015, the Governor announced the reappointment of John Schneider to the Board.

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Board Licensing.

Between the November and December Board meeting staff renewed the licenses of Captains Favro, Johnson, McIsaac, Ridens, and Teague.

Since the December meeting, Board staff renewed licenses for Captains Carlson, Coppo, Rocci, Robinson, Carlier, MacLachlan and Kellerman.

Board Surcharges.

Mr. Garfinkle reported that the Board received a check for \$138,878.98 for surcharges collected by the SFBP, which included the following:

Board Operations Surcharge: \$31,923.98

Continuing Education Surcharge: \$16,550.00

Trainee Training Surcharge: \$90,405.00

Legislative Matters.

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

Contractual Matters.

Ms. Cristia-Plant gave a report to the Board on contractual matters as follows:

- An investigator contract with Capt. Jeffrey Hill was finally executed on December 22, 2014. The contract will expire on June 30, 2017, consistent with the other investigator contract.
- Executive Director Garfinkle sent the Fatigue Study Request for Proposal (RFP) to four governmental researchers on December 23, 2014. There is an informational meeting of the Pilot Fitness Committee scheduled for January 28, 2015, so that researchers can ask questions regarding the RFP. Proposals are due by February 24, 2015.
- The Continuing Education Committee met on January 10, 2015, and approved minimum qualifications to be included in the Manned Model Training RFP. The proposed minimum qualifications will be sent to the California Highway Patrol (CHP) contracting staff for

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review. Staff will submit the minimum qualifications to CHP's contract staff and continue to work with Capt. Long on the RFP's point scoring categories.

- Staff has completed a scope of work and proposed contract for the next revenue auditor. Executive Director Garfinkle is reviewing the current draft of the contract, which will be submitted to CHP in the near future.
- Staff has begun working on a contract amendment to extend the interagency agreement with UCSF for medical examinations and fitness determinations. The current agreement expires April 30, 2015, and allows for three one-year extensions.
- Other contracts that will need to be renewed or extended this year include an interagency agreement with CHP for administrative services; the trainee exam development contract with Capt. Dave Gates, and the combination course at CMA.

6. Port Agent's Report

Port Agent Peter McIsaac gave the Port Agent Report. He reported the following to the Board:

- There were five pilots absent for medical reasons during the month of December.
- There were five minimum rest period (MRP) exceptions during the month of December.
- The P/V DRAKE was out of service on December 27-30, 2014 due to a generator fuel pressure issue. The P/V GOLDEN GATE was out of service December 27-28, 2014, due to a main engine starter failure, out on January 13, 2015, for cooler zincs and propeller repairs, and out again on January 17, 2015, for battery control issues. The P/V PITTSBURG was out of service December 28 and 29 for propeller damage repairs.
- On December 17, 2014, eleven pilots participated in an e-pilot training class at CMA taught by Vic Schisler and Capt. Dave McCloy. The training will increase the number of qualified e-pilots to over 1/3 of the pilot membership.

He also reported the following for December 2014:

- When compared to a three-year average, bar crossings were down 2.5% at 498, bay moves were up 12.4% at 190, river moves were up 20.2% at 34, total moves were up 0.8% at 722, and gross registered tonnage was up 5.7% at 26,576,086 tons.
- When compared to 2013, year-to-date totals through December reflected total moves up 0.8% and gross registered tonnage was up 7.7%.

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Port Agent McIsaac noted that there has been a dramatic slowdown in ship traffic since January 1, 2015, due to ongoing contract issues between the ILWU and PMA. In the first half of January, he reported an estimated 16 vessels were diverted from the Port of Oakland.

7. Pilot Evaluation Committee

Capt. Einar Nyborg, Chairman of the Pilot Evaluation Committee (PEC), gave a report on its January 21, 2015 meeting. He reported that all trainees have finished an intensive three months of high job volume and are presently preparing to take Federal Pilot Exams. Further, the PEC is preparing to take on two new trainees with an orientation on January 28, 2015. They will be introduced to the Board at its February meeting.

The PEC is currently discussing extending the period of time a trainee can be excused from the Pilot Trainee Training Program without cause beyond the current one year period. The Committee believes that there are several areas of the regulation that could be adjusted to improve the quality of the program, and the committee will continue to discuss this item at their next meeting on February 18, 2015.

8. Reported safety standard violations – Executive Director Garfinkle

Mr. Garfinkle reported that he had received a report on January 9, 2015, from Capt. Greg Tylawsky that there was no officer present, as required by law, when he boarded the MSC LUCIANA.

9. Reportable piloting events – Executive Director Garfinkle

A) Status report on the investigation into the alleged hard landing of the M/T MINDORO STAR at Benicia #4, Valero Refining Company’s berthing facility on July 26, 2014.

Mr. Garfinkle stated the Investigation Review Committee (IRC) was prepared to present a report on this incident at today’s meeting under item 18.

B) Status report on the investigation into the loss of propulsion of the M/V OCEAN LIFE on September 5, 2014, wherein the anchors were deployed and allegedly made unintended contact with the Trans Bay Cable in the vicinity of the Union Pacific Railroad Bridge.

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Mr. Garfinkle reported that he had inspected the cable on December 19, 2014. Due to pending Freedom of Information Act requests from the United States Coast Guard (USCG), the investigation remains open. He requested an extension to the February 26, 2015, Board meeting, which will be the 174 day since the incident.

MOTION: Vice President Connolly moved to grant an extension of the IRC investigation report into the loss of propulsion of the M/V OCEAN LIFE to the February 26, 2015, Board meeting. Commissioner Long seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

10. Low Sulfur Fuel – Executive Director Garfinkle

Mr. Garfinkle gave a report on loss of propulsion incidents in November and December due to low sulfur fuel from data provided by the USCG. In November, there was one loss of propulsion attributed to fuel switching. In December, there were no loss of propulsion incidents due to fuel switching.

He further reported that the USCG issued Marine Safety Information Bulletin 14-02 regarding low sulfur distillate fuel on December 10, 2014. The bulletin indicated beginning January 1, 2015, all vessels must switch to low-sulfur fuel 200 nautical miles out from the North America coast.

Mr. Garfinkle also announced that the Captain of the Port had closed the file on the recent stowaway incident. Trespassing charges are being filed and the case has been closed by the USCG.

11. Pilot Power Committee – Commissioner Long

Commissioner Long reported that the Committee met on January 13, 2015, and examined the most recent 237(d) data and the results of the most recent retirement survey. Taking into consideration the number of licensed pilots and trainees, as well as the number of planned retirements, the Committee determined that is it not necessary to recommend that the Board add additional trainees other than the two trainees that are starting the Pilot Trainee Training Program the end of January. He stated the committee will meet again in late spring to reassess the need to add more trainees to the training program.

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12. Continuing Education Committee – Commissioner Long

Commissioner Long reported that the Continuing Education Committee met on January 13, 2015, and discussed the manned model Request for Proposals (RFP) document and agreed on the minimum qualifications for training providers. He also stated he continues to work with staff and the committee on the point scoring criteria for the RFP. He expressed the Committee’s desire to maintain the high training standards established by the present manned model training provider, while at the same time satisfying State contracting regulations and processes.

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

Board Counsel Eagan reported that the appeal is still pending.

PRESIDENT JOHNSTON STATED THAT AGENDA ITEMS 14 AND 15 WOULD BE CONSIDERED IN CLOSED SESSION, AND PROCEEDED WITH AGENDA ITEM 16.

16. Report on Stipulation for Settlement and mutual release from PEINADO v. BOARD OF PILOT COMMISSIONERS, Case No. 964430 – Board Counsel Eagan

Board Counsel Eagan had no report. Mr. Garfinkle shared a October 16, 2015, letter received from Mr. Peinado’s attorney that stated Mr. Peinado believes that he has complied with the agreement entered into with the Board, and would like to take the Pilot Trainee Training Program entrance exam as outlined in that agreement. Mr. Garfinkle indicated that he is working on a response to the letter from Mr. Peinado’s attorney.

17. Board discussion of best practices in maritime safety – Vice President Connolly

The USCG report on the M/T OVERSEAS REYMAR had been published on January 8, 2015, and contains two recommendations for the Board:

- 1) That the Board conduct annual underway evaluations of pilots, and that the USCG would initiate communications with the American Pilots Association (APA) to develop national best practices and guidelines for potential incorporation into local

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pilot professional development and training programs.

- 2) That the Board consider additional training for pilots to participate in low visibility/restricted waters radar navigation training on an annual basis. The report indicated that the USCG would be forwarding this recommendation to the APA for its consideration of the recommended pilot training issues

Commissioner Long pointed out that restricted visibility training is already part of the Combination Course training taken by pilots every five years, and that he, Capt. Livingstone and Capt. Roberts had worked extensively with CMA on developing this curriculum.

Port Agent McIsaac reported that the Executive Director of the APA will be attending the upcoming sessions of the BOPC Combination Course training. Port Agent McIsaac and staff will contact him to set up an in-person meeting.

Vice President Connolly stated that he sees the important role the APA plays and that communication with them is crucial. The Safety Committee will meet on February 4, 2015 and he requested that Staff add an item to its agenda to discuss the USCG recommendations in more detail.

Capt. Nyborg expressed his interest in changing the name of the PEC in order to avoid confusion about its function. The PEC only evaluates trainee performance and readiness to become pilots and has no role in the evaluation of pilots.

THE BOARD TOOK A BRIEF RECESS BEFORE CONTINUING WITH AGENDA ITEM 17.

BEGIN RECESS: 10:35

END RECESS: 10:50

18. Incident Review Committee report on the M/T MINDORO STAR – President Johnston

President Johnston recused himself from his duties as chair to partake in his duties as the chair of the IRC. Vice President Connolly chaired the meeting during the IRC presentation.

President Johnston introduced Mr. Garfinkle, who presented the IRC report on the M/T

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MINDORO STAR. Mr. Garfinkle gave an oral presentation of the IRC report.

On July 26, 2014, San Francisco Bar Pilot Capt. Pinetti was docking the M/T MINDORO STAR starboard side to at the Valero Terminal in Benicia. The wind was blowing from the northwest at 17-21 knots as the ship approached.

The pilot turned the ship off the dock and began backing the ship into the berth. When the ship's after spring line chock lined up with the appropriate bitt on the dock, the crew attempted to pass the after spring line to the linesmen. They did not take the proffered spring line, later reporting that they were unable to do so safely. During this exchange, the pilot reported that the bow of the ship was blown 25 to 35 feet off the dock. He used the tug boat and the ship's engine to bring it back to a parallel position alongside the pier.

While performing maneuvers to bring the ship back alongside, the ship made unintended contact the western end of the pier. Following this, the ship was docked successfully and the pilot departed. Approximately an hour later, the master of the ship was presented with a damage report from the terminal alleging structural damage to the pier.

A Commission investigator attended the vessel and photographed the damage to the pier. He noted damage to the metal grating and the concrete that attaches it to the pier. Executive Director Garfinkle and the pilot's counsel also visited the Valero terminal to view the alleged damage. The cost of repairs was not available at the time of the report.

The IRC found that the standard of care was whether the pilot was acting reasonably when responding to the challenge of the ship being blown off the dock and his actions to correct the ship back into position.

Although there was damage to the dock caused by the M/T MINDORO STAR, the IRC concluded that the pilot's action was consistent with that of a skilled professional with similar experience and training. Under conditions that were not ideal, he used his best judgment and skills. They recommended that the Board find no pilot error and that the investigation be closed with no further action.

MOTION: Commissioner Roberts moved that the investigation be closed with a finding of no pilot error as recommended by the IRC. Commissioner Schneider seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

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THE BOARD THEN WENT INTO CLOSED SESSION TO DISCUSS AGENDA ITEMS 14 AND 15.

BEGIN CLOSED SESSION: 11:20.

END CLOSED SESSION AND RETURN TO OPEN SESSION: 12:49 p.m.

14. Report on Fair Political Practices Commission decision to include Port Agent in the Board’s Conflict of Interest Code. – Executive Director Garfinkle

There was no report on this item from the closed session

15. Report on litigation. CRAIG E. REEDER v. BOARD OF PILOT COMMISSIONERS, initiated by Craig Reeder on December 17, 2014. – Board Counsel Eagan

There was no report from the closed session.

19. Public Comment on Matters Not on the Agenda

There were none

20. Proposals for additions to next month’s meeting agenda

There were none.

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21. Adjournment

There being no further business before the Board, the meeting was adjourned at 11:50.



Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini