

<b>Minutes</b>	<b>Monthly Board Meeting</b>	<b>Date:</b>
<b>Open Session</b>		October 24, 2013
<b>Location:</b> Board Offices at 660 Davis Street, San Francisco, CA 94111	<b>Page 1 of 8</b>	

**Board members present**

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

**Staff present**

Dennis Eagan, Board Counsel  
 Kelly Dolcini, Staff Services Analyst  
 Sigrid Hjelle, Office Technician

**Others present**

Capt. John Carlier, Acting Port Agent

**Public present**

Past President Knute Michael Miller, and San Francisco Bar Pilots (SFBP) Business Director John Cinderey 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 9:32 a.m. Staff Services Analyst Kelly Dolcini called roll and found a quorum had been established.

<b>Minutes</b>	<b>Monthly Board Meeting</b>	<b>Date:</b>
<b>Open Session</b>		October 24, 2013
<b>Location:</b> Board Offices at 660 Davis Street, San Francisco, CA 94111	<b>Page 2 of 8</b>	

**2. Approval of minutes of the September 26, 2013 Board meeting**

Board members were presented with the minutes of the September 26, 2013 meeting for approval.

**MOTION:** Vice President Connolly moved to approve the minutes from the August 22, 2013 Board meeting with leave for staff to make non-substantive clerical changes. Commissioner Schneider seconded the motion

**ACTION:** The motion passed unanimously.

**3. Announcements**

Vice President Connolly reported that he had attended the induction of the new chief of the Port of Oakland, Chris Lytle. He described Mr. Lytle as a good advocate for the Port who realizes that change doesn't come with cost-cutting.

**4. Board member activities**

President Johnston reported that he had attended the October 15, 2013 meeting of the Northern California Area Maritime Security Committee. The next meeting will take Place on January 14, 2014.

**5. Executive Director's report**

**Correspondence and activities since the last meeting:**

Ms. Dolcini gave the report in executive Director Garfinkle's absence.

She reported that On September 26, 2013, Board staff received a copy of a proclamation by Governor Brown honoring Commissioner Brooks' son Matt for his achievements with the S/Y DORADE in winning the 2013 Transpacific Yacht Race. The S/Y DORADE is the oldest yacht to both enter and win the Transpac, and had previously won the race in 1936. The proclamation names September 20<sup>th</sup> as "Dorade Day" and names the Dorade as the honorary flagship of the State of California.

<b>Minutes</b>	<b>Monthly Board Meeting</b>	<b>Date:</b>
<b>Open Session</b>		October 24, 2013
<b>Location:</b> Board Offices at 660 Davis Street, San Francisco, CA 94111	<b>Page 3 of 8</b>	

On September 26, 2013, staff received an e-mail from Lt. Sarah Thiebeault, United States Coast Guard (USCG) Port State Control Inspections Chief, notifying staff that a special note was placed in the M/V CHARLOTTE RICKMERS vessel profile so, during its next U.S. port call, the USCG can check the status of the pilot ladder.

On September 30, 2013, Executive Director Garfinkle received a letter from Congressman Garamendi thanking him for his participation in September's maritime roundtable discussion.

Also on September 30, 2013, staff received a copy of a letter to Brian Kelly, Secretary of the California State Transportation Agency, from Elaine Howle, State Auditor, requesting an annual followup response to the BOPC 2009 audit items that remain open.

On October 4, 2013, Staff received a copy of a letter addressed to the Board from Mr. Dale Settelmeyer of Oakland, who is concerned with the pending change to the Trainee Qualifications, and hopes that the Board will find a way to provide for applicants who aspire to take the 2014 Trainee applicant exam to be allowed to do so under the old regulations.

On October 7, 2013, staff received an open letter to the San Francisco Maritime Community regarding the 34<sup>th</sup> America's Cup from Capt. Greg Stump, United States Coast Guard Captain of the Port, Sector San Francisco, thanking the community for the spirit of cooperation that helped make the America's Cup a successful event.

On October 8, 2013, Board staff received a notice from the Office of Administrative Law reminding departments that their Rulemaking Calendars are due by January 30, 2014.

On October 15, 2013, staff received a copy of a letter from Thomas Burke, counsel for Pacific Merchant Shipping Association (PMSA), addressed to the Port Agent, Capt. Peter McIsaac, expressing displeasure with the response to their September 13, 2013 Public Records Act (PRA) request.

Staff received a copy of a "Safety Flash" from Tesoro Maritime Company documenting an incident of pilot ladder failure due to plastic wrapping covering part of the rope and causing it to deteriorate, while at the same time hiding the damage from inspection.

**Board licensing:**

Between the August and September meeting, staff renewed licenses for Captains Kenyon, Larwood, Kleess, and Boriolo. Since the September meeting, staff has renewed licenses for Captains. Kleess, Dowdle, and Chapman.

<p align="center"><b>Minutes</b></p> <p align="center"><b>Open Session</b></p>	<p align="center"><b>Monthly Board Meeting</b></p>	<p align="center"><b>Date:</b></p> <p align="center">October 24, 2013</p>
<p><b>Location:</b> Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p align="center"><b>Page 4 of 8</b></p>	

**Board Surcharges:**

The Board received a check for \$137,021.71 for surcharges collected by the SFBP, which were broken down as follows:

Board Operations Surcharge: \$32,331.71

Continuing Education Surcharge: \$54,150.00

Trainee Training Surcharge: \$50,540.00

**Legislative matters:**

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

**Contractual matters:**

Ms. Dolcini reported that the non-competitive bid request for Capt. Dave Gates' consultation on the upcoming trainee exam had been approved by the Department of General Services and work could begin when all signatures and approvals are obtained.

Staff has begun working with the Continuing Education Committee on a request for proposals (RFP) from manned model training facilities, as well as the Pilot Fitness Committee on a study of how fatigue affects the pilots.

Finally, she reported that staff are in the beginning stages of re-bidding contracts for Commission investigators and will submit bidding requirements and scope of work by next meeting.

**6. Port Agent's report**

Capt. McIsaac reported that there is currently one pilot absent for medical reasons (AFMR).

He described the twenty minimum rest period (MRP) exceptions since the September 26, 2013 meeting, ranging between 8.3 and 11.9 hours. The large number of MRP exceptions this month is due to the movement of mega-yachts associated with the America's Cup event.

<b>Minutes</b>	<b>Monthly Board Meeting</b>	<b>Date:</b>
<b>Open Session</b>		October 24, 2013
<b>Location:</b> Board Offices at 660 Davis Street, San Francisco, CA 94111	<b>Page 5 of 8</b>	

He next presented a report on billed vessel moves during the month of July. When compared to a three year average, bar crossings are down 1.1% at 560; bay moves are up 9.7% at 142; river moves are up 8.8% at 32; total moves are down 0.8% at 734 and gross registered tonnage up 5.4% at 28,713,001 tons.

The P/V SAN FRANCISCO was taken out of service on October 8<sup>th</sup>, 2013 due to low gearbox pressure, which was resolved by changing a valve.

**7. Pilot Evaluation Committee**

Capt. Carlier gave the report on behalf of Capt. Nyborg, Chairman of the Pilot Evaluation Committee (PEC). He reported that both trainees are progressing well at this time and the Committee will meet again in November.

**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 incident is currently under investigation and the 90<sup>th</sup> day deadline will occur on January 13, 2014.

**10. Pilot Fitness Committee**

Chairman Miller reported that the Pilot Fitness Committee met at 8:00 a.m. in Room 136 of the Simulator Building on the campus of the California Maritime Academy in Vallejo, California. Present were Chairman Miller and Committee Members BG Chet Ward, MD (US Army Ret.), and Robert Kosnik, MD (UCSF Medical Center). Also attending were Executive Director Allen Garfinkle and Board Counsel Dennis Eagan. Six San Francisco Bar Pilots, licensed by the Board, were in attendance as part of their mandated continuing education training as specified in Board regulations.

<b>Minutes</b>	<b>Monthly Board Meeting</b>	<b>Date:</b>
<b>Open Session</b>		October 24, 2013
<b>Location:</b> Board Offices at 660 Davis Street, San Francisco, CA 94111	<b>Page 6 of 8</b>	

Committee Members and staff observed and participated in the presentation of the fatigue module of the Combination Course offered as part of the Board mandated training to San Francisco Bar Pilots. The presentation was made by a representative of Alertness Solutions, Inc., a contractor to the California Maritime Academy. The presentation addressed issues of sleep debt and disruption of circadian rhythms, among other issues related to fatigue generally and pilot fatigue in particular. Fatigue mitigation strategies were discussed. There was ample opportunity for questions and answers. Course materials were prepared by Alertness Solutions and distributed to all participants.

Chairman Miller then reported on other activities in which he had worked with Board staff in developing a discussion draft for a statement of work for the pilot fatigue and pilot safety study mandated by SB 1408 (2012). The discussion draft will be available for committee deliberation and amendment at its next meeting.

Chairman Miller also reported that he had prepared a preliminary draft for a Spring Finance Letter for FY 2014-15. The two items addressed by the SFL are additional funding necessary to implement amendments to the Board’s pilot fitness regulations (7CCR217), and additional funding in order to contract for the pilot fatigue and pilot safety study mandated by SB 1408 (2012). The draft SFL will be considered by the Pilot Fitness Committee at its next meeting and subsequently by the Board’s Finance Committee and then by the Board itself.

The next Committee meeting will be in November.

**11. Rules and Regulations Committee**

- A) Commissioner Roberts reported that the Rules and Regulations committee was supposed to meet on October 11, 2013 to discuss the petition by PMSA to change the Board’s conflict of interest code, changed to pilot fitness regulations, and changes to trainee qualifications. The Committee did not meet. The pending changes to fitness regulations were approved by the Board but have not been signed by the Department of Finance.
- B) The Trainee Qualification regulations are currently in the public comment period which will end on December 6, 2013. To date, no comments have been received.
- C) The regulation package to charge a fee to participate in the Trainee Training Program Entrance Exam is ready to submit to the Secretary of the California State Transportation Agency, and the Executive Director confirmed that he will submit it under an Issue Memo this week.

<p align="center"><b>Minutes</b></p> <p align="center"><b>Open Session</b></p>	<p align="center"><b>Monthly Board Meeting</b></p>	<p align="center"><b>Date:</b></p> <p align="center">October 24, 2013</p>
<p><b>Location:</b> Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p align="center"><b>Page 7 of 8</b></p>	

D) The Petition of the Pacific Merchant Shipping Association to include the Port Agent in the Board’s Conflict of Interest Code came before the Board for a vote. Board Counsel Eagan summarized the written staff recommendation, which was to not act on the petition. PMSA Vice President Mike Jacob spoke in support of the petition. He stated that the range of persons to be included in the Board’s Conflict of Interest Code was not as narrow as presented in the staff recommendation, and that although the Port Agent was not an employee of the Board, he must be considered an officer or member of the Board, given the Court of Appeal decision in the recently published case concerning the Public Records Act.

On a roll-call vote whether to grant PMSA’s petition, Commissioners Johnston, Connolly, Long, Roberts, and Schneider voted no. There were no votes to grant the petition.

**12. Low Sulfur Fuel Report**

There was no low sulfur fuel report

**13. Report of the Attorney General’s Office**

Board Counsel Dennis Eagan stated that he had nothing to report.

**14. Public comment on matters not on the agenda**

There were no comments.

**15. Proposals for additions to next month’s agenda**

There were no proposals.

<p style="text-align: center;"><b>Minutes</b></p> <p style="text-align: center;"><b>Open Session</b></p>	<p style="text-align: center;"><b>Monthly Board Meeting</b></p>	<p style="text-align: center;"><b>Date:</b></p> <p style="text-align: center;">October 24, 2013</p>
<p><b>Location:</b> Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p style="text-align: center;"><b>Page 8 of 8</b></p>	

**16. Adjournment**

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

**ACTION:** The motion passed unanimously and the meeting adjourned at 10:18 a.m.

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Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini