

<p align="center">Minutes</p> <p align="center">Open Session</p>	<p align="center">Monthly Board Meeting</p>	<p align="center">Date:</p> <p align="center">December 12, 2013</p>
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Board members present

RADM. Frank Johnston, President, Public Member
 Mr. Dave Connolly, Vice President, Public Member
 RADM John Brooks, 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

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

Others present

Capt. Pete McIsaac, Port Agent

Public present

Past President Knute Michael Miller, Supervising Deputy Attorney General Christiana Tiedeman, Office of Spill Prevention and Response representative Jeff Cowan, Pacific Merchant Shipping Association Vice President Michael Jacob, U.S. Coast Guard Lt. John Lane, San Francisco Bar Pilot (SFBP) Capt. Einar Nyborg, SFBP Business Director John Cinderey and SFBP General Counsel Ray Paetzold were among the public present.

1. Call to order and roll call

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

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2. Approval of minutes of the November 14, 2013 Board meeting

Board members were presented with the minutes of the November 14, 2013 meeting for approval.

MOTION: Commissioner Roberts moved to approve the minutes from the November 14, 2013 Board meeting with leave for staff to make non-substantive clerical changes. Commissioner Schneider seconded the motion

ACTION: The motion passed unanimously, with Commissioner Brooks abstaining.

3. Announcements

President Johnston announced that the Board held a public hearing on December 6, 2013, for the purpose of receiving comments from the public regarding the proposed changes to the Trainee Admission regulations contained in section 213 of the Board regulations.

4. Board member activities

There were no announcements.

5. Executive Director's report

Correspondence and activities since the last meeting:

Executive Director Garfinkle's gave a report of the correspondence received by the Board since the November meeting:

On November 18, 2013, Mr. Garfinkle participated in a conference call with Pilot Fitness Committee Chairman Mike Miller and the Honorable Mark Rosekind, a member of the National Transportation Safety Board. The call concerned maritime pilot fatigue issues. Mr. Rosekind provided guidance and references to researchers who may be helpful to the Board in its endeavor to identify fatigue issues particular to the San Francisco Bar Pilots. A letter thanking him for his time was issued on November 20, 2013.

On November 25, 2013 Board staff received a letter from Sharon S. Watson, Director of the Office of Outreach, Education, and Assistance of the U.S. Dept. of Labor, Employee Benefits Security Administration, acknowledging receipt of a FOIA request initiated by Board staff

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concerning the Pacific Merchant Shipping Association’s request to the Dept. of Labor for an opinion letter as to whether ERISA applies to the Pilot Pension Plan. Staff received a follow-up call on December 10, 2013 informing them that the matter is still under consideration.

On November 26, 2013, Board staff, the Port Agent, and SFBP General Counsel Ray Paetzold participated in a conference call with Elizabeth Heidig, Senior Counsel for the California Office of Administrative Law concerning PMSA’s October 1, 2013 petition seeking a determination whether the Board and the Port Agent issued, used, enforced, or attempted to enforce underground regulations to assign pilots to work. As a result of that conversation, Board Counsel Dennis Eagan drafted a letter to Mrs. Heidig, dated November 26, 2013, requesting denial of PMSA’s petition, and setting forth the reasoning for such denial. On December 2, 2013, Board staff received a copy of a letter from Mrs. Heidig to Mike Jacob, Vice President of PMSA, declining to accept the petition.

On November 26, 2013 and December 6, 2013, Board staff received two surveys from Dana Teicheira, a Marine Surveyor previously approved by the Board. First was a hull survey on the P/V GOLDEN GATE dated November 22, 2013, which reports that the condition of the hull appears to be in good, operative condition and that the vessel remains suitable for its intended use as a pilot vessel. The report was accompanied by a tail shaft inspection report. Secondly, a condition and valuation survey on the P/V DRAKE dated December 6, 2013, wherein the estimated the fair market value of the DRAKE was calculated to be \$8m and the replacement value to be \$9.1m.

On December 9, 2013, Mr. Garfinkle received a letter from Chris Lane, Liaison to the 2013 State Employees Charitable Campaign thanking Board staff for their support.

As the Finance Committee Report was mistakenly omitted from the Board meeting agenda, Mr. Garfinkle reported that on December 9, 2013, the Finance Committee met with a quorum present and discussed Financial matters, including any changes to the mill rate based on the number of licenses anticipated on January 1, 2014. The number of pilots is expected to remain at 58 and no change to the mill rate was necessary. The Committee also determined that no changes to other surcharges were necessary.

Board licensing:

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No licenses were issued in November. Pilots licensed between the November and December meeting are Capts. Favro, Fuller, Johnson, McIsaac, Ridens and Teague.

Board Surcharges:

The Board received a check for \$117,827.26 for surcharges collected by the SFBP, which were broken down as follows:

Board Operations Surcharge: \$28,072.26

Continuing Education Surcharge: \$46,425.00

Trainee Training Surcharge: \$43,330.00

Legislative matters:

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

Contractual matters:

There were no contractual matters to discuss.

6. Port Agent's report

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

He reported that there were 16 minimum rest period (MRP) exceptions since the November 14, 2013 meeting, ranging from 9 to 11.9 hours.

He next presented a report on billed vessel moves during the month of November. When compared to a three year average, bar crossings are down 0.7% at 560; bay moves are up 8% at 91; river moves are up 13% at 51; total moves are up 1.2% at 702 and gross registered tonnage up 6.2% at 24,448,121 tons.

There were no pilot vessel issues to report.

7. Pilot Evaluation Committee

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Capt. Nyborg reported that both trainees are exceeding their benchmarks and will enter the evaluation stage shortly. The PEC, several pilot volunteers, one retired pilot, and Board staff are hard at work on the 2014 trainee exam. The Committee will meet again on January 22, 2014.

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 remains under investigation and the 90-day deadline for presenting the report will occur on January 13, 2014. As the January Board meeting will not occur until 10 days after the deadline, Mr. Garfinkle requested an extension to the January 23, 2014 Board meeting.

MOTION: Vice President Connolly moved to grant an extension to the January 23, 2014 Board meeting. Commissioner Long seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

On November 29, 2013, there was an interaction between the M/V ESSEX STRAIT and the M/T CHAMPION EXPRESS in the Port of Stockton. The M/T CHAMPION EXPRESS alleged gangway damage as a result of the interaction. The incident is under investigation.

10. Pilot Fitness Committee

Chairman Miller reported that the Pilot Fitness Committee met on December 3, 2013 and reviewed materials in preparation for drafting a Statement of Work that will lead to an appropriate contractor for the fatigue study.

11. Rules and Regulations Committee

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A) Commissioner Roberts reported that the Rules and Regulations Committee met jointly with the Ad Hoc Committee on Trainee Recruitment on December 9, 2013, to discuss the comments received during public comment period and at the public hearing on the proposed revisions to Trainee Training program entrance requirements. As a result of the comments received and testimony provided at the public hearing, changes to the proposed regulations were drafted that allow admission to the exam under both the old and proposed new regulations.

MOTION: Commissioner Roberts moved that the Board adopt the proposed trainee qualifications regulations, as revised December 9, 2013, and the proposed Final Statement of Reasons, conditional upon no further objections or recommendations being received during the 15-day comment period. Vice President Connolly seconded the motion.

During discussion on the motion, Board members suggested changes to the Final Statement of Reasons, most notably to address comment #9 in the letter from Dr. Anne Fulton to explain that the proposed regulations resulted from a thorough exchange of views over several years among members of the SFBP from both tug and deep-sea backgrounds. While the Board did not identify the exact language for the revision, staff understood what was requested and has supplemented the response to incorporate the substance of the Board's suggested addition.

ACTION: The Board voted unanimously to adopt the proposed regulations without change from the revisions recommended by the Committee and the Final Statement of Reasons as modified contemporaneous to the vote.

12. Low Sulfur Fuel Report

Executive Director Garfinkle reported on the number of California loss of propulsion incidents reported in 2013, and the number that are confirmed or suspected to be related to low sulfur fuel. He reported that of 68 loss of propulsion incidents this year, 12 were determined to be due to fuel switching and another 24 were suspected to be related to fuel switching. As the report originated with Capt. Cowan of the Department of Fish and Game office of Spill Prevention and Response, who was present, Mr. Garfinkle invited him to add his comments to the report.

Mike Jacob, PMSA Vice President pointed out that a new law would go into effect on January 1, 2015 requiring vessels to switch to 0.1% low-sulfur fuel in North American waters. Capt. Cowan announced that he would give a report on the subject in Oslo.

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13. Report of the Attorney General’s Office

- A) Board Counsel Eagan reported that the Office of Administrative Law had declined to accept PMSA’s petition to the OAL, which sought a determination that the Work Rules and Operations Guidelines of the San Francisco Bar Pilots were “underground regulations” of the Board and the Port Agent.
- B) Board Counsel Eagan reported that PMSA had appealed to the Fair Political Practices Commission the Board’s decision rejecting PMSA’s petition to include the Port Agent in the Board’s Conflict of Interest Code.

Before considering agenda item #14, the Board first addressed items 15 and 16.

15. Public comment on matters not on the agenda

There were no comments.

16. Proposals for additions to next month’s agenda

There were no proposals.

The Board then took up agenda item #14.

14. Report on Current Litigation: Pacific Merchant Shipping Association vs. BOPC and Peter McIsaac as Port Agent, Writ of Mandate. The Board may go into closed session to

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discuss with Board Counsel any matters subject to attorney-client privilege as per Government Code Section 1126(e)(i) of the Bagley-Keene Open Meeting Act. Possible Board action concerning law suit.

In order to discuss the litigation matter, the Board went into closed session.

BEGIN CLOSED SESSION: 11:40 a.m.

END CLOSED SESSION: 12:00 p.m.

Following the closed session, it was noted that a quorum was present.

RESUME OPEN MEETING: 12:04 p.m.

16. Adjournment

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

ACTION: The motion passed unanimously and the meeting was adjourned at 12:05 p.m.

Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini