

## **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: [brian.vu@bopc.ca.gov](mailto:brian.vu@bopc.ca.gov)  
website: [www.bopc.ca.gov](http://www.bopc.ca.gov)



Board of Pilot Commissioners  
Monthly Board Meeting  
December 15, 2011 9:30 a.m.  
**MINUTES**

### **OPEN MEETING**

#### **Call to Order and Roll Call – President Miller**

President Knute Michael Miller called the meeting to order at 9:34 a.m. Vice President Johnston, and Commissioners John Cronin, David Wainwright, and John Brooks, were present, constituting a quorum. Commissioners Roberts and Osen were unable to attend. The Business, Transportation and Housing Agency was represented by Deputy General Counsel Gabor Morocz, who participated by telephone from Sacramento. Members of staff present were Executive Director Garfinkle, Board Council (Deputy Attorney General) Dennis Eagan, Staff Services Analyst Brian Vu, and Office Technician Kelly Dolcini. Acting Port Agent Rick Hurt was also seated at the Commission table.

Joint Legislative Sunset Review Committee senior Consultant Sarah Weaver and Committee Consultant Malcom Maclachlan were also listening in by telephone in addition to Member Morocz during the meeting.

#### **2) Approval of Minutes – President Miller**

President Miller requested approval of the minutes of the November 17, 2011 Board meeting. Commissioner Johnston moved approval of the minutes with authority to Board staff to make clerical, non-substantive changes. Commissioner Brooks seconded the motion, which passed unanimously on a voice vote.

#### **3) Announcements – President Miller**

There were no announcements.

#### **4) Board Member Activities – Board Members**

President Miller reported that he had attended the Bay Area Maritime Trades Council monthly meeting on December 14<sup>th</sup>. The group heard an address by Port of Oakland Commissioner Victor Ono.

There were no other reports.

**5) Executive Director's Report** – Executive Director Garfinkle

A) Correspondence and activities since the November 17, 2011 meeting.

On December 1, 2011, the staff received a notice from the Board of Pilot Commissioners of the Stockton Port District stating their approval of the appointment of Captain Eric Robinson as a qualified Pilot of the Stockton Port District.

Also on December 1, 2011, we received a notice from the Port of West Sacramento stating that it had received and accepted the list of applications for pilot commission. They include: Capt. Haggerty, Capt. Hurt, Capt. Kleess, Capt. Miller, Capt. Pinetti, and Capt. Sweeney.

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

In November, staff renewed no licenses.

Thus far in December, no licenses have been renewed.

C) Report on surcharges received by the Board.

Executive Director Garfinkle reported that the Board collected November surcharges totaling \$196,046.61 broken down as follows: Board Operations surcharge \$84,712.61, Pilot Continuing Education surcharges of \$68,775.00, and Trainee Training surcharges of \$42,559.00.

D) Report on legislative activities and contractual matters.

There were no legislative activities to report.

Staff Services Analyst Brian Vu reported on the following contracts:

Fiduciary contract – staff is beginning the preliminary work on a new fiduciary contract for administration of the pilot pension plan. Currently, Ghirardo is the Board's service provider. Their contract runs out on March 31, 2012. The contract will be done on a small business request for proposal option.

Office Technician Dolcini reported that staff had purchased a new pilot identification card system on a contract of requisition basis and will have it operational early in the coming year.

Deputy Counsel Morocz questioned if there would be changes to the license. If so, any changes to licenses should go before the Rules and Regulations Committee first. He also stated that he had some proposed changes. Commissioner Wainwright stated that his Committee would welcome any changes and suggested that staff discuss this with Deputy Counsel Morocz and submit proposed changes to his Committee.

## **6) Port Agent's Report – Acting Port Agent Captain Rick Hurt**

Captain Hurt reported that Capt. Horton is away on Naval Reserve duty and Capt. McIsaac is away due to a death in the family.

A) Monthly confidential written report on pilots absent for medical reasons (AFMR) presented to Board.

Captain Hurt reported that Captain Morgan Hoburg suffered injury from a fall off the pilot ladder on June 14, 2011 while disembarking a vessel. He was found not fit for duty on June 22, 2011 by a BOPC designated physician.

Captain Tony Coppo has been AFMR since October 5, with non-work related injuries. He is working as the Operations Pilot. He is expected to be Fit for Duty RFD January 1, 2012.

Captain Carl Martin has been AFMR since November 9, with non-work related injuries. He is expected to be Fit for Duty RFD January 1, 2012.

Captain Peter McIsaac has been AFMR since November 15, with a non-related work injury.

Capt. Hurt stated that he did not have a copy of the Port Agent's confidential written report. After discussion, the Board agreed that it would review the report at next month's meeting.

B) Recommended Minimum Rest Period (MRP) Exceptions:

There were 21 MRP's during the month of November.

President Miller requested that the status of the MRP's along with the amount of dispersion and range of times be included at the next meeting.

C) Monthly report on SFBP ship piloting business activity.

Billed moves in November 2011 compared to the three-year average were as follows: Bar crossings up 4.6% (530), bay moves down 16.7% (98), river moves up 38% (53.5), total moves up 2.6% (666) and gross registered tons (GRT) up 6.2% (25,257,853). When compared to November 2010, bar crossings are up 6.9%, total moves are up 7.2% and GRT is up 8.5%.

Capt. Hurt reported that the Occupy Movement occurred on one of the slower days, resulting in a mitigated impact. Only one ship chose not to dock at night. Capt. Hurt also reported that the quarterly man overboard (MOB) drills are scheduled for mid-January. During these drills, Marine Rescue Consultants will be used to evaluate and offer suggestions to existing search and rescue procedures as well as rigid inflatable boat (RIB) recovery methods.

## **7) Pilot Evaluation Committee** – Captain Richard Hurt for Captain Einar Nyborg

The Pilot Evaluation Committee (PEC) met on December 14, 2011. In closed session, all six trainees were interviewed individually. The current trainees include: Carr, Johnson, Manes, and Stultz, Lingo and Favro. All trainees are progressing well at this time. Two trainees have advanced to the final phase of training.

The next PEC meeting is scheduled for January 18, 2012.

The PEC also asked that the Board recognize Alice Evans, retired annuitant for the Board, thanking her for her hard work. Executive Director Garfinkle echoed this sentiment, stating that Alice was a large part of the Board's institutional memory. She will be missed. Vice-President Johnston inquired if the Board could make a certificate honoring her service. Staff will look into this further.

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

There were no safety standard violations reported since the last meeting.

## **9) Reportable Piloting Events** – Executive Director Garfinkle

Executive Director Garfinkle briefed the Board on the status of the investigations, presenting the Board with a timeline of events for each ongoing incident.

Executive Director Garfinkle stated that the report on the USS POINT DEFIANCE collision with the Union Pacific Railroad Bridge would not be for presentation at the December Board meeting as previously anticipated. The January meeting will be the 140<sup>th</sup> day since the incident.

Commissioner Wainwright moved that the time to present the USS POINT DEFIANCE report be extended to January 26, 2012. Commissioner Cronin 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 with Vice-President Johnston abstaining.

Executive Director Garfinkle stated that the report on the event involving the M/T PARTAWATI docking where loss of life of a kayaker occurred would be presented at the January Board meeting. The January meeting day would be the 95<sup>th</sup> day since the event.

Commissioner Cronin moved that the time to present the M/T PARTAWATI report be extended to January 26, 2012. Commissioner Wainwright 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 with Vice-President Johnston abstaining.

Executive Director Garfinkle reported that a grounding of the ASTON TRADER II on the San Joaquin River in the vicinity of Light 31 occurred on November 5, 2011. The

investigation process has been initiated. The 90 day deadline will be reached on February 3, 2012.

Executive Director Garfinkle reported that a grounding of the M/V TATJANA at Stockton berth 10-11 occurred on November 28, 2011. The investigation process has been initiated. The 90 day deadline will be reached on February 26, 2012.

Executive Director Garfinkle reported that an event involving the M/V OAKLAND encountering a small boat on the Sacramento River occurred on December 3, 2011. The investigation process has been initiated. The 90 day deadline will be reached on March 2, 2012.

Commissioner Wainwright inquired as to status of the manpower of the investigative staff. Executive Director Garfinkle responded that the Board was fully manned with five Board contracted investigators.

#### **10) Rules and Regulations Committee – Commissioner Wainwright**

Commissioner Wainwright reported that the Rules and Regulations Committee had met with the Pilot Fitness Committee on November 30, 2011 and December 9, 2011. The Committee worked on drafting regulations and made progress on the agenda. The next meeting is scheduled for January 9, 2011.

#### **11) Finance Committee – Commissioner Cronin**

Commissioner Cronin reported that the Committee has not met recently. He anticipated a meeting in February.

#### **12) Pilot Fitness Committee – Commissioner Roberts**

Commissioner Roberts was not present. In his absence, Executive Director Garfinkle delivered the report.

Executive Director Garfinkle reported that the Fitness Committee met on November 29, 2011. The agenda discussed was sleep and fatigue mitigation training at the combination course. The next meeting is scheduled for January 5, 2011.

#### **13) Low Sulfur Fuel – Executive Director Garfinkle**

There was no report.

#### **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**

Commissioner Roberts was not present. In his absence, President Miller and Executive Director Garfinkle addressed the agenda item. The Committee has not met since the last Board meeting. President Miller explained for the benefit of members of the public who were not familiar with the Board's oversight practices that semi-annually the Board conducts a confidential survey of all licensees to determine the intentions of those licensees with respect to retirement. The information is used to predict the number of licensees from time to time in the future. That prediction, in turn, is used by the Board to determine the number of applicants to bring into the trainee training program, with the intention of bringing the number of licensees to the current limit of 60 pilots.

Executive Director Garfinkle stated that the next retirement survey questionnaires would be mailed in late December or early January with the expectation that the Board would address the question of number of trainees in January or February.

PMSA Vice President Mike Jacob inquired whether the Board would have before it Regulation section 237(d) data (related to number of vessel moves and minimum rest period exceptions, among other things) at that time. President Miller responded that it would.

### **17) Ad Hoc Committee on Blue Card rates – President Miller**

President Miller stated that he had substituted for Committee Chairman Johnston at the November 21 meeting, and stated that the Committee was making progress in defining the Blue Card service charges. Vice President Johnston thanked President Miller for serving as his substitute and stated that he looked forward to resuming his duties at the January meeting. President Miller requested staff to poll the membership of the Committee regarding their availability and asked Vice President Johnston to set a date for that meeting.

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

Board Counsel Eagan reported that the COSCO BUSAN was approaching its final point in litigation. He stated that the public comment period was initiated in September and has since elapsed. January 27, 2012 is the date where Judge Conti would approve the consent decree. The proposed settlement would provide remedies for environmental and recreational damages in excess of \$44 million. There have been three public comments, all in support.

**19) Discussion and possible Board action regarding facilitation of meetings between Tesoro Amorco and the SFBP for the purpose of reducing and minimizing the effects of vessel interactions near the Union Pacific Railroad Bridge and the adjacent AMORCO wharf (Tesoro terminal). – Commissioner Osen.**

Following the IRC report of the interaction incident between the MV CHAMPION PIONEER and the SCF SAMOTLOR, it appears that dialogue between the terminal (Tesoro Amorco) and the SFBP could help to minimize such incidents in the future. The BOPC may assist and facilitate such discussions. Agreements and findings could also aid in the prevention of interaction incidents at other Bay Area terminals. **Possible Board action to direct Board staff to organize a meeting or meetings between the Tesoro and SFBP with the objective of developing a working protocol that may reduce and minimize the effects of vessel interactions at this location.**

Commissioner Osen was not present. The Board discussed the proposal. Executive Director Garfinkle clarified that the proposal was that the Board serve as a facilitator of discussions between SFBP and Tesoro, and that the Board staff would not attempt to establish protocols or take other actions that might subject the Board to liability in the event of future mishaps.

Commissioner Wainwright voiced his concern whether the Board needed to get involved, stating that SFBP could initiate talks with Tesoro separately. President Miller stated that this would not be an ongoing practice. It would just be a useful experiment to see whether the Board could play a proactive role. Commissioner Wainwright, upon realizing that other agencies would not be involved, stated his agreement that it would be a useful exercise.

After further discussion, Vice President Johnston moved that the Board direct staff to organize a meeting or meetings between SFBP and Tesoro with the objective that those parties develop a working protocol with the goal of reducing and minimizing the effects of vessel interactions at the AMORCO wharf. Commissioner Brooks seconded the motion. President Miller called for further discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously on a voice vote.

**20) Discussion of National Transportation Safety Board report on the allision and collision of the EAGLE OTOME with other vessels in the Sabine-Neches Canal in Port Arthur, Texas, January 23, 2010 and recommendations to Governor Brown and others. Possible Board action in response. – President Miller**

President Miller reported that the Governor has not communicated with the Board or BTH with respect to the NTSB recommendations and that the Board would not take any action with respect to those recommendations unless and until asked to do so by the Governor. Nevertheless it is appropriate for the Board to consider those recommendations as they relate to current Board operations, and that the Pilot Fitness Committee is doing just that.

**21) Status report on progress of staff's fact finding concerning pilotage of CGM NORMA and extraordinary pilotage fees charged by the SFBP for use of two pilots servicing the ship – Board Counsel Eagan**

Board Counsel Eagan reported that and the Executive Director had concluded their interviews and that a report likely would be ready for presentation to the Board at its January 2012 meeting.

**22) Request for *post facto* extension for the November 17, 2011 presentation of the IRC report on the M/T CHAMPION PIONEER interaction with the M/T SCF SAMOTLOR in the vicinity of the Union Pacific Railroad Bridge on July 28, 2011 – Executive Director Garfinkle**

Report was due by October 27, 2011 Board meeting (91 days approved by Board extension) and not presented until the November 17, 2011 Board meeting (121 days) due to late emergent information bearing on the substance and evaluation of the report. **Possible Board action to grant an extension, after the fact, to present the IRC report on the M/V CHAMPION PIONEER at the November Board meeting.**

Executive Director Garfinkle explained that because the published agenda for the October Board meeting did not include an announcement of possible Board action to grant an extension of time for the IRC report on the incident, no vote could be taken at that meeting. Accordingly, the IRC at this meeting is requesting the *post facto* extension. After discussion, Commissioner Wainwright moved that the Board grant an extension, after the fact, to present the IRC report on the M/V CHAMPION PIONEER at the November 17, 2011 Board meeting. Commissioner Cronin seconded the motion. President Miller called for discussion by the Board and comments from the public. There were none. Whereupon the motion passed unanimously on a voice vote, Vice President Johnston abstaining.

**23) IRC Incident Report on USS POINT DEFIANCE September 8, 2011 allision with the Union Pacific Railroad Bridge pier while under dead tow – Executive Director Garfinkle**

IRC Incident Report and recommendation on the USS POINT DEFIANCE allision with the Union Pacific Railroad Bridge. **Board deliberation and decision with respect to possible pilot error. Board determination with respect to further actions if appropriate. The Board may go into closed session for the deliberation of the pilot incident report presented under item 19 above pursuant to Harbors and Navigation Code section 1180.6(a) and Government Code section 11126(c)(3).**

There was no report, the Board having granted an extension to January 26, 2012 for the IRC to report on this incident.



#### **24) Public Comment on Matters not on the Agenda**

PMSA Vice President Mike Jacob stated that he would circulate to the Board and to BTH for comments a bill drafted by PMSA with respect to pilot safety and Board organization. President Miller thanked Mr. Jacob for the advance notice.

Mr. Raymond Paetzold, Esq., representing SFBP stated his opinion that the Ad Hoc Committee on Blue Card Rates would be prepared to conclude its activities with respect to defining the several Blue Card service charges at its next meeting and would be prepared to make recommendations to the Board at its January, 2012 meeting.

#### **25) Proposals for Additions to Next Month's Agenda**

There were none.

#### **26) Adjournment**

Prior to adjournment, the Executive Director provided to Board members and to the public a list of proposed meeting dates for Board meetings during 2012. After discussion, the Board agreed to continue its traditional scheduling for Board meetings, to wit: On the fourth Thursday of each month with the exception of November and December, when the meetings would be held on the third Thursday of those months. President Miller reminded the Board and the public that the meeting dates proposed were tentative and subject to change by the Board from time to time.

There being no further business to come before the Board, it adjourned at 10:40 a.m.