

Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

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Board of Pilot Commissioners
Monthly Board Meeting
February 23, 2012 9:30 a.m.
MINUTES

OPEN MEETING:

1) Call to Order and Roll Call – President Miller

President Knute Michael Miller called the meeting to order at 9:32 a.m. Vice President Frank Johnston and Commissioners Eric Osen, Steve Roberts, David Wainwright, John Cronin, and John Brooks were present, constituting a quorum. Business, Transportation and Housing Agency (BTH) Acting Secretary Traci Stevens was represented by BTH Deputy General Counsel Gabor Morocz, who participated by telephone from Sacramento. Members of staff present were Executive Director Allen Garfinkle, Board Counsel Dennis Eagan, and Office Technician Kelly Dolcini. San Francisco Bar Pilots (SFBP) Port Agent Capt. Bruce Horton also was seated at the Commission table.

2) Request Approval of Minutes – President Miller

President Miller requested approval of the minutes of the January 26, 2012 Board meeting. Vice President 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

President Miller announced that he, Executive Director Garfinkle, and Pilot Fitness Committee member Barbara Price had presented and responded to questions at the February 15th hearing before the Joint Sunset Review Committee. President Miller noted that today's agenda provides for Board discussion of the hearing later in the meeting.

President Miller announced that on February 21, 2012 he had appointed Vice President Johnston and Commissioner Cronin to the Board's Pilot Power Committee. Commissioner Roberts continues to serve as chairman.

President Miller reminded all Commissioners and senior staff that Fair Political Practices Commission Form 700 (Statement of Economic Interests) is due to be filed with Board staff not later than April 2, 2012. President Miller noted that Board investigators also are required to file Form 700.

President Miller announced that The Washington Board of Pilotage Commissioners has offered to host the next biennial regional pilotage regulators meeting toward the end of 2012 or early in 2013. Past meetings have included the state pilotage authorities of California, Oregon, Washington, Alaska, and British Columbia. At the request of Capt. Harry Dudley, Chairman of the Washington Commission, President Miller has communicated with the local pilotage regulators in California (Ports of San Diego, Los Angeles, Long Beach, Port Hueneme, and Humboldt Bay) to invite them to the meeting. That process is on-going.

President Miller announced that Staff Services Analyst (SSA) Brian Vu had received a promotion to Associate Government Program Analyst and effective February 16, 2012 had transferred to the California Public Health Service office in Sacramento. President Miller then referenced an email he had received from SSA Vu in which he stated that because of the accelerated start of his new position, he had not been able to say his proper “goodbyes.” He asked that President Miller read the following message:

“Due to my new employer needing me sooner than anticipated, I regretfully could not attend this Board meeting to say my proper goodbyes. I want to thank each and every one of you, from members of the public, stakeholders, the Commissioners and staff for welcoming me aboard, teaching me so much and making my first job out of school a memorable experience. It was a pleasure working with everyone and the Board will always have a special place in my heart. I also want to give a special thanks to Executive Director Garfinkle, a great supervisor, a great mentor, and a great friend. I hope to visit soon.”

President Miller expressed his appreciation to SSA Vu for his service to the Board and wished him well with his future endeavors.

President Miller announced that Commissioner Osen had informed him that he would assume new duties at Chevron Shipping Company effective March 10, 2012. President Miller invited Commissioner Osen to elaborate on the nature of his new responsibilities. In response, Commissioner Osen stated that while he would continue to be resident in the United States, he would spend approximately half of his time on-site in Angola. He will oversee mooring masters, sea based FPSO’s (Floating Production, Storage and Offloading vessels), offshore rig movements, and other activities in the Concession. He will be located in Malongo, Cabinda Province, Angola. The assignment is for three years.

4) Board Member Activities – Board Members

There were no reports.

5) Executive Director’s Report – Executive Director Garfinkle

A) Correspondence and activities since the January 26, 2012 meeting:

The Executive Director received several copies of responses to the National Transportation Safety Board report on the allision and collision of the EAGLE OTOME in Port Arthur, Texas, including responses from the Oregon Board of Maritime Pilots, the Alaska Board

of Marine Pilots, and from Christine O. Gregoire, Governor of Washington State. It was noted that today's agenda provides for Board discussion of the correspondences later in the meeting.

On January 26, 2012, Board staff received a letter to the Commissioners from Mike Jacob, Vice President of Pacific Merchant Shipping Association (PMSA) thanking the Board and specifically the Ad Hoc Committee on Blue Card rates for the productive work done on clarifying the service codes and identified various outstanding issues still remaining to be resolved.

Also on January 26, 2012, staff received a copy of a letter to Board President Miller and the Commissioners from Mike Jacob, Vice President of PMSA submitting comments with respect to the NTSB Safety Recommendations following the EAGLE OTOME incident report. The letter embraces the NTSB recommendations to create hours of service regulations and argues that strict hours of service rules will not result in pilot shortages.

On February 1, 2012, Board staff received a copy of the consent decree in *United States v. Regal Stone, Fleet Management and John Cota*. Board Counsel may address this more fully later in the meeting.

On Feb 3, Board staff received a copy of a letter from Sarah Weaver, Senior Consultant to the Joint Sunset Review Committee to Board President Miller, thanking him for participating in the upcoming hearing on February 15, 2012.

On February 6, 2012, Board staff received a copy of a letter from Conte Cicala, counsel for PMSA, to Board Counsel Dennis Eagan regarding a Public Records Act (PRA) request concerning specific documents relating to the Port Agent's duties and their perception of non-responsiveness on the part of the Port Agent.

On February 17, 2012 staff received a letter from SFBP Port Agent Bruce Horton to Board President Miller and the Commissioners responding to the NTSB recommendations following the EAGLE OTOME report and concurring with the BTH letter to NTSB. The letter goes on to lay out reasoning in favor of a guideline approach to work hours as opposed to strict regulation.

On February 22, 2012, Staff received a copy of a letter from Port Agent Bruce Horton to Conte Cicala, Counsel for PMSA, concerning the production of documents mentioned in the earlier PRA request.

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

Between the December and January Board meetings the Board staff renewed thirteen licenses to the following pilots: Captains Carlier, Carlson, Coppo, Greig, Kellerman, Kelso, MacLachlin, McIsaac, Ridens, Robinson, Rocci, Teague, and Roberts.

Since the January Board meeting staff has renewed licenses for Captains Pinetti, Ruff, and Wagner.

C) Report on surcharges received by the Board.

The Board received \$192,731.22 in surcharges for the month of January. The total breaks down as follows: Board operations charge \$83,714.22; continuing education surcharge \$66,945.00; trainee training surcharge \$42,072.00.

D) Report on legislative activities and contractual matters.

There were no legislative activities to report. On contractual matters, Executive Director Garfinkle reported that the contract for fiduciary services is with the California Highway Patrol in Sacramento. He also reported that the scope of work for the non-competitive SFBP contract was rejected by the Department of General Services and will need to be re-written with a better explanation of the training programs, and finally, that Board staff is set to begin work on a contract for combination course continuing education, possibly with California Maritime Academy. Staff will also begin work on a request for proposals (RFP) for manned-model training to begin in 2013.

Legislative Joint Sunset Review Committee Senior Consultant Sarah Weaver joined the meeting telephonically from Sacramento.

6) Port Agent's Report – San Francisco Bar Pilot (SFBP) Port Agent Captain Bruce Horton

A) Monthly report on SFBP ship piloting business activity.

Capt. Horton reported that there were 505 bar crossings, 92 bay moves, and 42 river moves, making the total billed moves in January 639. When compared to a three year average, bar crossings are down 4.5%, bay moves down 19.3%, river moves up by 51.8%, total moves down by 4.7%, and total gross registered tonnage (GRT) was down 1.4% (24,948,171).

When compared to January 2011 billed moves, bar crossings are down 3.3%, total moves are down 1.4%, and GRT is down 4.3% .

B) Monthly report on pilot availability and absences.

Captain Horton reported that Captain Morgan Hoburg and Captain Chris Anderson have been placed on medical disability leave by the BOPC.

He also reported that there were four minimum rest period (MRP) exceptions in January. Of the four, three occurred on January 17, due to ships cancelling moves due to heavy fog in the Bay.

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, section 1157.1.

After Board members had had the opportunity to review the confidential written report, President Miller inquired whether any Board member wished to go into closed session to discuss the report. There were no requests.

7) Report on February 15, 2010 hearing held by the Joint Sunset Review Committee of the California Legislature. – President Miller and Executive Director Garfinkle.

President Miller reported that two days prior to the hearing, on Monday, February 13, 2012, he and Executive Director Garfinkle had paid courtesy calls on the Chair (Assemblymember Alyson Huber) and Vice Chair (Senator Gloria Negrete McLeod) of the Joint Sunset Review (JSR) Committee. The purpose was to acquaint all parties with each other prior to the commencement of the hearing. President Miller went on to summarize the hearing as follows:

The JSR Committee hearing scheduled for February 15th went off as scheduled. It lasted about two hours. The Chair, Assemblywoman Alyson Huber, confirmed at the outset that the Committee had determined that BOPC was a necessary part of state government and that the Committee would not sunset the Commission.

Presenters, in order of appearance, were:

1. Elaine Howle, the State Auditor and head of the Bureau of State Audits (BSA). With her was Laura Boll who supervised the BSA audit of BOPC. Also present in the audience was supervising field auditor, John Lewis.

Ms. Howle summarized the findings of the audit but went on to make complimentary comments about the speed and devoted efforts of BOPC to implement the BSA recommendations. She noted that 25 of the 27 had been implemented with the remaining two (related to BOPC medical oversight of pilots) expected to be implemented by June 30, 2013.

2. Mike Miller, Allen Garfinkle, and Barbara Price for BOPC.

President Miller stated his view that the BSA audit provided the Board with a “roadmap” for fixing the Board’s many shortcomings at the time of the audit. He also referenced the JSR Committee’s scrutiny of the Board as providing us with additional focus as we move forward with necessary changes. Executive Director Garfinkle talked about the many changes that have occurred on his watch and also the fact that we have been working without a full complement of authorized personnel. Ms. Price discussed the Pilot Fitness Committee work with the University of California Medical Center and the ongoing workshops directed at developing language appropriate for rulemaking.

3. Mike Jacob for PMSA.

Mr. Jacob referenced many improvements in the Board functioning stemming from the BSA audit recommendations. He also touched on recurring PMSA themes including the proposal that the Board review “pilot logs” to determine whether SFBP dispatch procedures are fully efficient.

Commissioner Osen attended the hearing but did not speak. A substantial contingent of SFBP pilots, including Commissioners Wainwright and Roberts, and the Port Agent attended but did not speak. Also, Mr. John McLaurin, President of PMSA attended the hearing but did not speak.

There were various questions from Assembly members and Senators present. None were directed at President Miller, Executive Director Garfinkle, or Barbara Price.

The Chair, Assemblymember Huber, inquired of President Miller whether the Board supported or disagreed with the staff recommendations to the Board. President Miller responded to certain of the recommendations in the staff background paper. He stressed that he spoke only for himself as the Board had not taken positions on the recommendations. He stated personal support for issuing a request for proposals (RFP) in 2013 for manned-model training. He stated his opposition to a rigid “hours of service” regulation, noting that he looks to SFBP to develop proposals to eliminate or significantly reduce MRP exceptions. He stated his view that sending pilots to Port Revel in economy class would result in waste on the outbound leg (because pilots would arrive fatigued and unable to absorb the training on the first day – a waste of 20 percent of the \$17,600 per pilot tuition the Board pays) and also would result in an unacceptable level of risk to pilotage because of the fatigued conditions in which returning pilots would return to their duties.

All in all, he characterized it as a successful outing. The Board may be invited back in several weeks when the Committee announces its final decisions on recommendations to the Board and to the Legislature.

On the way out of the hearing President Miller was asked by a cameraman/reporter for ABC7 (KGO-TV) to do an interview. He agreed. Separately, Mike Jacob also was interviewed. The brief report ran at 6 P.M. on the evening of February 15th. There were brief “quotes” from Mike Miller and Mike Jacob.

The hearing was broadcast live on the Legislature’s in-house and out-of-house channel. President Miller has secured a recording of the hearing for Board records and Commissioner review.

President Miller invited questions and comments from the Board and from the public. Joint Sunset Review Committee Senior Consultant Sarah Weaver commented that "it was a fine report".

The Board then considered Agenda Item #23.

23) Review and discussion of Pilot Travel – Executive Director Garfinkle

Review and discussion of pilot travel expenses including a review of contract language calling for "most economical, refundable fare," the use of the Department of General Services (DGS) Statewide Travel Program versus having the San Francisco Bar Pilots choose a travel agency, and consideration of refundable versus non-refundable tickets. Possible Board action on changing contract language or a policy decision on type of ticket or the use of a specific travel agency.

In its report, the Joint Sunset Review Committee (JSR) staff recommended using DGS travel services to show financial oversight and transparency. Executive Director Garfinkle discussed his conversations with DGS travel personnel with respect to using both their on-line services and telephone services to procure tickets for pilot travel to training facilities both domestically and internationally.

He reported that DGS contracts with a limited number of carriers, none of which offer the SFBP preferred route to France and that the price difference between the current ticket procurement system and the DGS system is negligible.

Executive Director Garfinkle enumerated benefits of each method. For booking through SFBP, these included:

- Ease of service, very little staff involvement;
- Access to a wider variety of vendors (this may be important in achieving the goal of low travel hours);
- Pilots may be given complementary upgrades by vendors; and
- In line with prices quoted by DGS.

For booking through DGS Travel Store, these included:

- Greater transparency and appearance of propriety;
- Access to "capacity controlled" tickets ("V" class), which may be cheaper but have limited availability; and
- Tickets paid for directly by the Board avoiding the "pass through" agreement for travel.

Member Morocz made the observation that if the Board chooses to use the DGS service it does not make sense to direct SFBP to make the reservations; the Board staff should undertake that itself.

Commissioner Osen made several observations concerning the air travel. One was questioning the need for a fully refundable ticket. He noted that ordinary tickets can normally be changed with a small fee and typically are useable within one year of purchase. Another concern he expressed was that the travel itinerary provides ample time to recover, both on the French side and on the return in the United States before returning to piloting duties.

After an extensive discussion by the Board, President Miller suggested that the Board needed additional information about the utility of the DGS reservation system as well as information on cost comparisons, scheduling flexibility, and the like. The Board could ask staff to further research these issues. Also, because the Pilot Fitness Committee is reviewing fatigue

issues in connection with minimum rest period exceptions, the Board could ask that Committee to include in its review fatigue issues associated with different classes of international air travel. Until the Committee and staff can report their findings to the Board, President Miller suggested that the Board could continue its pilot travel policy as it presently exists, to wit: to reimburse SFBP for the cost of the most economical, fully refundable airfare, and to continue to contract with SFBP to make the travel arrangements.

Vice President Johnston moved that the Board continue to reimburse SFBP for the cost of the most economical, fully refundable airfare, and to continue to contract with SFBP to make the travel arrangements, and that the Board direct the Pilot Fitness Committee to consider fatigue issues associated with different classes of international air travel, and that the Board direct staff to do further research concerning the pros and cons of using the DGS travel service vs. the pros and cons of contracting with SFBP to provide these services. Commissioner Roberts seconded the motion.

President Miller called for further discussion by the Board and comments by the public. There were none. President called for the yeas and the nays. The motion passed on a roll call vote of six yeas, one nay, Commissioner Osen voting in the negative.

The Board then considered Agenda Item #21.

21) Discussion of National Transportation Safety Board (NTSB) 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, recommendations to Governor Brown and others, response letters from the Oregon Board of Maritime Pilots, the Alaska Board of Marine Pilots, and any other letters from pilot oversight organizations that my be received prior to the Board meeting. – President Miller

President Miller stated that he or the Board itself had received copies of responses to the NTSB recommendations from California (Traci Stevens, Acting Secretary, BTH), Oregon (Kim Duncan, Chair, Oregon Board of Maritime Pilots), Washington (Governor Christine O. Gregoire), and Alaska (Curtis W. Thayer, Chairman, Alaska Board of Marine Pilots). In addition, President Miller stated that both PMSA (Mike Jacob letter dated January 26, 2012) and SFBP (Port Agent Bruce Horton letter dated February 14, 2012) had responded to the Board's invitation to provide comments and recommendations in connection with the NTSB recommendations for the Board's consideration. Copies of all six letters are included in the Board book for today's meeting and are available to the public.

President Miller invited discussion by the Board.

President Miller thanked both PMSA and SFBP for their responses, but went on to challenge certain assertions in the respective letters:

The SFBP letter includes a serious misstatement of fact, to wit: "As you know, the primary reason for that rise in MRP violations has been the lack of pilots, a matter that is entirely within the control of the Board. . . ." In fact, the Board cannot fully control the census of serving pilots because we do not control the speed with which trainees complete the program and are licensed, the number and timing of retirements, the number and timing of injuries and illnesses

that result in AFMR pilots and in some cases disability retirements, and various aspects of SFBP operations that impact the number of pilots available from time to time.

The PMSA letter includes calculations based on “best guess” estimates as well as at least one clearly inaccurate statement (“the average number of pilots on the board per year from 2001-2010 was 59.425”). That figure does not take into consideration the fact only half of the Board’s licensees are on the board during any particular watch, that neither the Port Agent nor the Operations Pilot are on the board, nor does it take into consideration the number of pilots who are off the board for various reasons such as being AFMR or away at mandatory training. Also, the calculations used by PMSA to compute the average number of pilots includes five years asserting that there were in excess of 60 pilots on the board – which is impossible because there are a maximum of 60 pilots licensed at any one time. Further, the focus on “actual piloting” time – sometimes referred to as “time on the bridge” is not a meaningful metric. Time at work for a surgeon is greater than the time in the operating room. Time at work for a firefighter is greater than time on the fire truck or time spent attempting to put out a fire.

President Miller noted that the Pilot Fitness Committee is considering the recommendations to the Governor from the NTSB and forwarded to the Board by BTH. And the issue of pilot workload is germane to that activity.

President Miller invited comment from the public. PMSA Vice President Mike Jacob stated that he looked forward to working with the Committee on these matters.

Member Morocz left the meeting at 10:48 a.m. due to scheduling conflicts.

The Board returned to the agenda in regular order beginning with Agenda Item #9. Consideration of Agenda Item #8 was deferred until later in the meeting.

9) Reported Safety Standard Violations and Investigations – Executive Director Garfinkle

Executive Director Garfinkle stated that there had been no reports of safety standard violations since the last meeting.

10) Reportable Piloting Events – Executive Director Garfinkle

A) Status report on the November 5, 2011 grounding of the ASTON TRADER II on the San Joaquin River in vicinity of Light 31. Request for an extension from the Board to present this report at the March Board meeting. Possible Board action to grant an extension to the Executive Director to present ASTON TRADER report at March Board meeting.

Executive Director Garfinkle reported on the status of the IRC investigation and stated that he had been unable to complete the report in time for today’s meeting because of the press of other Board business, the transfer of the Board’s staff services analyst to the California Public Health Service, and because of the demands of preparing for and testifying at the Joint Sunset Review Committee hearing held February 15th. Commissioner Wainwright moved to grant an

extension to March 22, 2012. Commissioner Roberts 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, Vice President Johnston abstaining.

B) Status report of the November 28, 2011 soft grounding of the M/V TATJANA at berth 10/11 in Stockton. Request for an extension from the Board to present this report at the March Board meeting. Possible Board action to grant an extension to the Executive Director to present M/V TATJANA report at March Board meeting.

Executive Director Garfinkle reported on the status of the IRC investigation and stated that he had been unable to complete the report in time for today's meeting because of the press of other Board business, the transfer of the Board's staff services analyst to the California Public Health Service, and because of the demands of preparing for and testifying at the Joint Sunset Review Committee hearing held February 15th. Commissioner Brooks moved to grant an extension to March 22, 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, Vice President Johnston abstaining.

C) Status report on the M/V OAKLAND's December 3, 2011 encounter with a small boat in the Sacramento River channel. Request for an extension from the Board to present this report at the March Board meeting. Possible Board action to grant an extension to the Executive Director to present M/V OAKLAND report at March Board meeting.

Executive Director Garfinkle reported on the status of the IRC investigation and stated that he had been unable to complete the report in time for today's meeting because of the press of other Board business, the transfer of the Board's staff services analyst to the California Public Health Service, and because of the demands of preparing for and testifying at the Joint Sunset Review Committee hearing held February 15th. Commissioner Brooks moved to grant an extension to March 22, 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, Vice President Johnston abstaining.

D) Status report of the December 30, 2011 damage to Richmond 8 pier during the docking of the M/V SOLAR WING.

Executive Director Garfinkle reported that the Incident Review Committee intends to address this event at the March Board meeting but that it does not appear to be a serious marine incident.

E) Status report of the M/V BERLIN TRADER interaction with the M/V GLOBAL PIONEER while approaching berth 19-20 in Stockton on January 19, 2012.

Executive Director Garfinkle reported that the Incident Review Committee intends to address this event at the March Board meeting.

F) Initial report of the M/V MULBERRY WILTON interaction with the M/T OVERSEAS TAMPA while passing Plains Terminal, Martinez, on January 27, 2012.

Executive Director Garfinkle reported that the Incident Review Committee intends to address this event at the March Board meeting.

G) Initial report of the M/V THEOTOKOS (mast) allision with the Union Pacific Railroad Bridge on January 30, 2012.

Executive Director Garfinkle reported that the Incident Review Committee intends to address this event at the March Board meeting.

11) Rules and Regulations Committee – Commissioner Wainwright

Rules and Regulations Committee Chairman Wainwright reported that the Rules and Regulations Committee met jointly with the Pilot Fitness Committee on February 2, 2012, and February 22, 2012, and that the Committee estimates an additional two months will be needed to complete discussions and review of the regulations being promulgated from the recommendations contained in the University of California Medical Center bar pilot fitness study.

12) Finance Committee – Commissioner Cronin

Commissioner Cronin stated that the Finance Committee had not met since the January meeting but that a meeting would be scheduled for March after the SFBP annual audit results are available, and before the next Board meeting.

13) Pilot Fitness Committee – Commissioner Roberts

Pilot Fitness Committee Chairman Roberts reported that the Pilot Fitness Committee had to cancel both the February 7, 2012 and February 17, 2012 meetings due to member scheduling conflicts. Next meeting is tentatively set for March 12, 2012.

14) Low Sulfur Fuel – Executive Director Garfinkle

Executive Director Garfinkle yielded the floor to Capt. Jeff Cowan of the Office of Spill Prevention and Response. Capt. Cowan announced that, as requested by United States Coast Guard, he shall no longer forward loss of propulsion information. He asked that if anyone has questions regarding a loss of propulsion incident occurring within the waters of California, that they contact Michael Boyes at the following email address: Michael.J.Boyes@uscg.mil

15) Ad Hoc Working Group on Trainee Recruitment – Commissioner Wainwright

Ad Hoc Working Group on Trainee Recruitment Chairman Wainwright had no report.

16) Continuing Education Committee – Commissioner Roberts

Commissioner Roberts reported that there would be two classes of pilots reporting to the Maritime Institute of Training and Graduate Studies (MITAGS) in April and May, and two classes of pilots reporting to manned-model training at Port Revel, France in May and June.

17) Pilot Power Committee – Commissioner Roberts

A) Report on February 22, 2012 Pilot Power Committee meeting.

Commissioner Roberts reported that the Pilot Power Committee met on Feb 22, 2012 and reviewed a retirement survey of all pilots to assess whether ranks should be increased due to retirement plans. The Committee recommended no change in the number of pilots.

B) Possible recommendation from Pilot Power Committee to recommend one or more trainees be brought into the training program. Possible Board action to contract with one or more new trainees.

The Committee recommended no change in the number of trainees at this time. The Committee will meet again to reassess in about six months.

President Miller noted that with the current trainees, the Board may be on track to have 60 pilots by the year end.

18) Ad Hoc Committee on Blue Card Rates – Vice President Johnston

Vice President Johnston stated that the Ad Hoc Committee had not met since the January Board meeting. He noted that there are three remaining items on the Committee's agenda.

He also noted that today likely was his last Board meeting because, at least to date, he has not been reappointed. He thanked President Miller for standing in for him while he was on medical leave, and thanked the Executive Director and other Board staff for their support of his activities.

President Miller responded that Vice President Johnston had brought a wide experience in maritime matters to his tenure on the Board and wise counsel with it. President Miller, for the entire Board, expressed his appreciation and stated that Vice President Johnston would be sorely missed.

19) Report of the Attorney General's Office – Board Counsel Eagan

Report on pending litigation and proposed settlement involving the Board stemming from the allision on November 7, 2007 of the M/V COSCO BUSAN with the San Francisco-Oakland Bay Bridge and such other legal matters that the Office of the Attorney General wishes to present to the Board. The Board may go into closed session to discuss with Board Counsel any matters subject to attorney-client privilege as per Government Code Section 11126(e)(i) of the Bagley-Keene Open Meeting Act.

Board Counsel Eagan reported that Judge Conti of the federal district court approved the COSCO BUSAN consent decree on January 27, 2012, and that various dismissals would now be forthcoming.

20) Discussion and review of various alternatives that exist to allow concurrent use of Automated Identification System (AIS) information on Portable Pilot Units (PPU's) by licensed pilot and trainee without loss of signal. Possible Board action on authorizing Board staff to acquire Board approved equipment for training purposes – Executive Director Garfinkle

Executive Director Garfinkle presented Board members with several options to address enabling more than one PPU connection to the shipboard Automated Identification System pilot plug at any one time. These options included “serial cabling” where one PPU is connected to the AIS pilot plug and the second PPU is connected to the first, essentially passing on the data; “Bluetooth” piggybacking, where the first PPU is hard wired to the AIS plug and transmits the data by Bluetooth to the second PPU; and lastly a splitter option, which was originally presented to the Board, but may present signal strength issues. The Chairman of the Pilot Evaluation Committee Captain Einar Nyborg was present at the meeting and interjected that several splitters, that are personal property of the pilots, have been in use with no adverse effects and notwithstanding the Commission’s concerns, the PPU is just one tool in use among many tools that a pilot uses to perform his work and that none are to be fully relied upon to the exclusion of others.

Following discussion a motion was made by Commissioner Roberts to purchase two splitter plugs for use by the trainees, with the caveat that Board staff would continue to research the issue of signal degradation. Vice President Johnston seconded the motion. President Miller called for further discussion by the Board and comments from the public. There were none. A voice vote was taken and the motion passed unanimously.

Having previously considered Agenda Item #21, the Board moved to consideration of Agenda Item #22.

22) Report on inquiry into pilotage charges for CMA CGM NORMA and other fees not expressly provided for by statute, together with opinion of counsel concerning validity of such fees – Executive Director Garfinkle and Board Counsel Eagan

Board Counsel Eagan reported that the report from the Executive Director and Board Counsel on the inquiry was not yet completed, nor was the related opinion of counsel.

The Board then considered Agenda Items #25 and #26.

25) Public Comment on Matters not on the Agenda

President Miller called for comments on matters not on the agenda. There were none.

26) Proposals for Additions to Next Month's Agenda

President Miller called for proposals for additions to next month's agenda. There were none.

The Board then moved to consideration of Agenda Item #8.

8) Pilot Evaluation Committee – Captain E. Nyborg

A) Report on February 22, 2012 Committee meeting.

The Pilot Evaluation Committee met on February 22, 2012. In closed session, all six trainees were interviewed individually. The current trainees include: Laakso, Carr, Johnson, Manes, Favro and Stultz. Their time in the program ranged from 5 to 14 months. All trainees are progressing well at this time. Next meeting is scheduled for March 21, 2012.

B) Possible recommendation for a determination that a trainee has or trainees have completed the pilot trainee training program; Possible Board action.

Captain Nyborg introduced Captain Josh Stultz, and proceeded to detail the Pilot Evaluation Committee's recommendation that Capt. Stultz be issued a Certificate of Completion of the Board training program:

Capt. Nyborg reported to the Board that at the February 22, 2012 meeting, the Committee completed a final assessment of whether trainee Stultz had successfully completed all elements specified in Section 214(h) in the Board regulations. The Committee unanimously agreed that he has, and has authorized recommending Capt. Stultz for a Certificate of Completion.

At the conclusion of Capt. Nyborg's report and upon receiving the PEC recommendation, President Miller inquired of Executive Director Garfinkle whether he had verified that Trainee Stultz had met the requirements for being issued a Certificate of Completion.

The Executive Director responded that he had verified that Trainee Stultz had completed all requirements specified in Board Regulation 214, that he had been in the training program more than one but not more than three years as required by Harbors and Navigation Code section 1171.5(c) and that he had maintained average scores from PEC members on trips handled of 4.0 or better on a scale of 5.0 during each of the last three months. He stated that that it was his opinion that the Board should grant a Certificate of Completion of the Trainee Training Program to Trainee Stultz.

Commissioner Wainwright moved that the Board grant a Certificate of Completion to trainee Stultz. Vice President Johnston seconded the motion. President Miller called for discussion. There was none. President Miller called for the yeas and nays. The motion carried on a roll call vote: 7 yeas, 0 nays.

C) Possible Executive Director recommendation for the appointment of a new pilot or pilots; Possible Board action.

President Miller inquired of Executive Director Garfinkle whether he had received an application for licensing from Capt. Stultz. The Executive Director stated that he had, that there currently are vacancies with respect to the number of authorized licenses, that Capt. Stultz had completed the Board's trainee training program, that the Board had received a fit for duty determination for Capt. Stultz from a Board designated physician, that Capt. Stultz held a United States Coast Guard master's license for vessels of 1600 tons or larger, with radar observer's endorsement, and that Capt. Stultz held United States Coast Guard endorsements for all pilotage grounds in San Francisco Bay and its tributaries. The Executive Director stated that in his opinion Capt. Stultz was eligible to be licensed as a San Francisco Bar Pilot.

Commissioner Wainwright moved that the Board grant an initial license as a San Francisco Bar Pilot to Capt. Stultz. Commissioner Johnston seconded the motion. President Miller called for discussion. There was none. President Miller called for the yeas and nays. The motion carried on a roll call vote: 7 yeas, 0 nays.

The Board offered it's congratulations to Capt. Josh Stultz – newly licensed as a San Francisco Bar Pilot – and to his family, who were present in the audience.

The Board then moved to consideration of Agenda Item #24.

President Miller announced that the Board would stand in recess for 20 minutes, after which it would reconvene to conduct the annual performance appraisal of the Executive Director. Whereupon the Board stood in recess at 11:45 a.m.

At 12:05 the Board reconvened. President Miller noted that by inspection all Commissioners were present and that a quorum was established. President Miller also noted that Member Morocz was present by telephone in Sacramento.

24) Performance Evaluation of Executive Director – President Miller

Annual Performance Evaluation of Executive Director. The Board may go into closed session pursuant to 11126(a)(1) of the Bagley-Keene Open Meeting Act to discuss the evaluation.

President Miller announced that the Board would go into closed session to consider the annual performance evaluation of the Executive Director.

CLOSED SESSION

The Board went into closed session at 12:06 p.m.

OPEN SESSION

The Board returned to open session at 12:26 p.m.

President Miller announced that in the closed session the Board considered the annual performance evaluation of the Executive Director and took no other actions.

27) Adjournment

There being no further business to come before the Board, the Board adjourned at 12:27 p.m.