

<b>Minutes</b>	<b>Monthly Board Meeting</b>	<b>Date:</b>
<b>Open Session</b>		February 26, 2015
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**Board members present**

RADM. Francis Johnston, President, Public Member  
 Dave Connolly, Vice President, Public Member  
 Jennifer Ferrera Schmid, Public Member  
 Capt. Joe Long, Pilot Member  
 Capt. George Livingstone, 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, 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. Bill Greig; SFBP Business Director/General Counsel Raymond Paetzold; 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 January 22, 2015, Board meeting**

Board members were presented with the minutes of the January 22, 2015, meeting for approval.

**MOTION:** Vice President Connolly moved to approve the January 22, 2015, Board meeting minutes. Commissioner Long seconded the motion.

**ACTION:** The motion passed unanimously on a voice vote.

**3. Announcements – President Johnston**

President Johnston introduced the two newest Commissioners, Jennifer Ferrera Schmid, who joined the Commission as a public member, and Capt. George Livingstone, as a Pilot representative.

He reminded Commissioners about their obligation to turn in Form 700, Statements of Economic Interests, as well as the pending annual performance review of Executive Director Garfinkle which review will be discussed at the March 26, 2015, Board meeting.

**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:

- On January 30, 2015, Board staff received a resignation and request for a pension from Capt. Nancy Wagner, effective March 31, 2015, following 25 years of service as a pilot and two terms on the Pilot Commission.
- On February 2, 2015, Board staff received a solicitation from Marsden Davis of Progeny Systems offering the services of Dr. Hertz to perform psychometric attestation services for the Pilot Trainee Training Program.

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- Also on February 2, 2015, at the request of the Assembly Transportation Committee of the California legislature, the constituent departments of the California Transportation Agency presented short overviews on the role of each department. Accompanied by Assistant Director Roma Cristia-Plant, Mr. Garfinkle presented an overview of the Board and its programs. A copy of the committee meeting agenda and our presentation was provided to the Board.
- On February 3, 2015, Board staff received a copy of a letter from Governor Brown addressed to Mr. Robert McEllrath, President of the International Longshore and Warehouse Union (ILWU) and Mr. James McKenna, Chairman and CEO of Pacific Maritime Association (PMA), conveying the importance and urgency that both entities finding a fair and amicable settlement to their differences since the trade through our ports jobs and is critical to the state’s economic activity.
- On February 6, 2015, at the suggestion of California State Transportation Agency, Mr. Garfinkle wrote a letter to the editor of the *San Jose Mercury News*, in an attempt to clarify and add balance to the news coverage of the inoperative RACON beacon on the Alpha-Bravo span of the San Francisco-Oakland Bay Bridge. The letter was not printed by the newspaper.
- On February 9, 2015, Board staff was provided with an article from the *Wall Street Journal* titled “Bigger Container Ships Pose Bigger Risks,” citing the size increase in modern ships makes the risk posed by a single accident greater, with the number of accidents down but the resulting accident cost higher. The article reported that ship groundings topped the insured loss charts from 2009 to 2013, putting this kind of incident ahead of fire, plane crashes, and earthquakes.
- On February 10, 2015, Mr. Garfinkle received a letter from Port Agent McIsaac detailing the effect of the PMA/ILWU contract dispute has had on the SFBP business. The letter also described cost-cutting measures instituted by the organization to stabilize cash flow.
- On February 11, 2015, Coast Guard Sector San Francisco hosted a deep draft industry day at Coast Guard Island. President Johnston and Mr. Garfinkle attended the event.
- On February 12, 2015, Mr. Garfinkle received a thank you note from Jim Frazier, Chairman of the Assembly Transportation Committee, for his presentation at the Transportation Committee’s informal meeting on February 2, 2015.
- Also on February 12, Mr. Garfinkle attended the local Harbor Safety Committee meeting held in San Francisco. At the meeting, the Committee approved the new guidelines

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drafted by its Navigation Workgroup. Following the approval, the United States Coast Guard (USCG) published the guidelines in a Marine Safety and Security Information Bulletin (MSIB 15-02) dated February 13, 2015.

- On February 13, 2015, the Board received announcements from the Governor’s Office that Capt. George Livingstone and Jennifer Schmid had been appointed to the Board of Pilot Commissioners. Mr. Garfinkle offered his congratulations to the new Commissioners.
- On February 17, 2015, Board staff received a copy of a letter to Commissioners Schneider from the Senate Rules Committee Appointments Director Annett Porini, congratulating him on his reappointment.

**Board Licensing.**

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

Since the January meeting, Board staff has renewed licenses for Capts. Pinetti, Greig, Roberts, Lingo, Martin, and Stultz.

**Board Surcharges.**

Mr. Garfinkle reported that the Board received a check for \$136,698.25 for surcharges collected by the SFBP, which included the following:

Board Operations Surcharge: \$32,433.25

Continuing Education Surcharge: \$16,005.00

Trainee Training Surcharge: \$88,260.00

**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:

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- Three responses were received to the pilot fatigue request for governmental researcher proposals by the February 24, 2015, deadline. Proposals were received from researchers from San Jose State University, the University of California at San Francisco (UCSF), and Washington State University and are being reviewed. Proposals were not received from researchers at Penn State or Colorado State.
- Staff continues to work with Commissioner Long to craft language for minimum qualifications for a manned model request for proposals. The proposed minimum qualifications will be sent to the California Highway Patrol's (CHP) contract staff for review when completed. Staff will next begin work with Capt. Long on request for proposal point scoring categories.
- Board staff and CHP staff continue to work on a draft contract for revenue auditing services. There have been recent changes to state contracting rules and Board staff is now working to determine whether the services can be procured from within the state.
- Staff has begun work on an amendment to extend the interagency agreement with UCSF for medical exam services. The agreement expires on April 30, 2015, and allows for three one-year extensions. Staff expects to receive a revised budget from UCSF soon.
- There are other contracts that need to be renewed this year including an interagency agreement with CHP, and an interagency agreement with California Maritime Academy (CMA) for bridge resource management training.

Commissioner Long asked for clarification of the meaning of Pilot Trainee Training Program "psychometric attestation services." Mr. Garfinkle said he did not know exactly what the result of a psychometric attestation would be, but that he would submit the letter to the PEC. He said the Board would follow state contracting procurement rules if it is determined that psychometric attestation services are desired.

Mr. De Alba announced that Caltrans had reported that all RACONS on the Bay Bridge are not working. Some of the beacons had to be returned to their manufacturer for replacement.

Vice President Connolly spoke regarding the ILWU/PMA labor dispute and reported that it had been settled, pending ratification by members of both sides. He asked Port Agent McIsaac whether business was improving. Port Agent McIsaac reported that pilots have started to work the ships at anchorage in the bay and drifting outside the bay. He expects a flurry of movements and then a return to normalcy, but that some lines have cancelled their Bay Area trips for the foreseeable future, so it is hard to say how robust commerce will be in the near future.

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Vice President Connolly further inquired about the training staff at CMA. Mr. Garfinkle assured him that there is an active search for a deeper pool of experts to conduct the Board’s continuing education program. Commissioner Livingstone agreed that it is important to ensure that both the combination course and the manned model training programs are run by experienced professionals who command respect from the pilots.

President Johnston thanked Ms. Cristia-Plant for stepping in and attending the Maritime Leadership Conference in his absence.

**6. Port Agent’s Report**

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

- There were six pilots absent for medical reasons during the month of January.
- There were four minimum rest period (MRP) exceptions during the month of January.
- The P/V GOLDEN GATE was out of service January 28, 2015 for routine maintenance. The P/V PITTSBURG was out of service on February 19, 2015 for routine maintenance. The P/V SAN FRANCISCO was out of service on February 7, 2015 due to a malfunctioning sewage tank controller.

He also reported the following for January, 2015:

- When compared to a three-year average, bar crossings were down 25.5% at 41, bay moves were up 26.8% at 126, river moves were up 10.9% at 34, total moves were down 15.6% at 559, and gross registered tonnage was down 24.5% at 20,243,017 tons.
- When compared to 2014, year-to-date totals through January reflected total moves down 18.4% and gross registered tonnage was down 30.1%.

Port Agent McIsaac drew the Board’s attention to the dramatic drop in average shipping traffic, and described the negative impact it has had on the SFBP. Daily billings in 2014 averaged \$107,000. By early February, 2015, that number had dropped to \$71,000 and by mid-March, the average had dropped to \$62,000 per day. In order to deal with the plunge in revenue, the SFBP has shut down the P/V PITTSBURG and laid off three employees. They have also postponed repairs to their facilities. Port Agent McIsaac also indicated that it is estimated that it will take 2-4 months to clear the cargo and get back to normal operations.

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**7. Pilot Evaluation Committee**

Pilot Evaluation Committee (PEC) Chairman Nyborg was not present at the meeting. Mr. Garfinkle gave the report on his behalf. He reported that: the PEC met on February 18, 2015; four trainees have finished an intensive three months of high job volume and are now focused on federal pilot exam testing; the two newest trainees are focused on the high intensity job volume and federal exam preparation; and, all trainees are performing above PEC benchmarks.

Further, he reported that at its monthly meeting, the Committee continued work on streamlining the outline for the Board’s Pilot Trainee Training Program, online trainee reporting, benchmarks for successful completion of the program and the trainee manual. The next PEC meeting is scheduled for March 18, 2015.

**8. Reported safety standard violations – Executive Director Garfinkle**

Mr. Garfinkle reported that he had received a report on February 6, 2015, from Capt. Mark Manes who reported that, prior to disembarking the M/T THEO T, he had thoroughly discussed the arrangement of the accommodation ladder with the Master. He asked that a combination ladder be rigged and fastened to the hull as required by United States and international law. When he went to disembark the ship, he found that the ladder was not in the requested condition, which caused an unsafe condition. United State Coast Guard Sector San Francisco Port-state Control was notified of the violation. The ship was outbound from the bay, so no investigation was conducted by the Commission.

On February 21, 2015, Mr. Garfinkle received a report from Capt. Einar Nyborg that a drone had flown up to the bridge wing as he was piloting the M/V POLARIS VOYAGER in the vicinity of Harding Rock. Capt. Nyborg considered the drone’s presence a security risk and a hazard.

**9. Reportable piloting events – Executive Director Garfinkle**

A) 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.

Mr. Garfinkle reported that he had received a damage estimate of \$15 million, and that the matter is still under investigation pending receipt of USCG Freedom of Information Act requests for Vessel Traffic Service AIS data.

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

**ACTION:** The motion passed unanimously on a voice vote.

- B) Status report on the investigation into the interaction between the M/V HANJIN MUMBAI and the M/V CSCL SUMMER at Oakland Berth 59 on January 23, 2015, resulting in damage to the gangway of the M/V HANJIN MUMBAI. Mr. Garfinkle reported that the incident is still under investigation. The 90-day deadline will occur on April 23, 2015.

**10. Low Sulfur Fuel – Executive Director Garfinkle**

Mr. Garfinkle gave a report on loss of propulsion incidents in January due to low sulfur fuel from data provided by the USCG. There were four loss of propulsion incidents, none of which were determined to be related to fuel switching.

**11. Rules and Regulations Committee – Commissioner Roberts**

Commissioner Roberts’ term on the Board has ended so Mr. Garfinkle presented the report and stated that the Rules and Regulations Committee met on February 4, 2015, but that there was no report from the meeting.

**12. Pilot Safety Committee – Commissioner Roberts**

The Pilot Safety Committee met February 4, 2015 at 1:30 p.m., and all agenda items were discussed with the exception of items 7 and 8, which were deferred due to time constraints. The mission statement remains a work in progress.

There was a discussion of the use of precision piloting units in dead ship towing and Capt. McIsaac reported that pilots have all options available when transiting, including the use of a precision piloting unit or a second “e-pilot” to assist.

The Committee is addressing the topic of the USCG report on the M/T OVERSEAS REYMAR incident. The item will remain on the agenda for further consideration at the Committee’s next meeting.



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Vice President Connolly thanked Capt. Roberts for his service to the Committee and his openness to discussing difficult issues. He also thanked Capt. Hurt for his expert contribution of industry knowledge.

President Johnston also took the opportunity to thank Capt. Roberts for his years of work as a member of the Board and its committees. From the public, Mr. Miller spoke of Capt. Roberts valuable contributions to the Board and his leadership during his tenure. President Johnston suggested a certificate or letter of appreciation be drafted for Capt. Roberts.

**13. Committee Assignments – President Johnston**

President Johnston presented the Board with his suggestions for changes to the Committee roster. Commissioner Schmid joined the Continuing Education, Pilot Power, and Pilot Safety Committees, as did Commissioner Livingstone. Commissioner Livingstone also joined the Finance Committee.

**14. Executive Director Appointment – President Johnston**

President Johnston asked if any Commissioners wished to go into closed session to discuss Mr. Garfinkle’s reappointment to a five-year term as Executive Director of the Board of Pilot Commissioners. There were no requests.

**MOTION:** Vice President Connolly moved to appoint Mr. Garfinkle to another five-year term as Executive Director of the Board of Pilot Commissioners. Commissioner Schneider seconded the motion.

**ACTION:** The motion passed unanimously on a voice vote.

**15. Possible Hearing on Pilotage Rates – President Johnston**

Board Counsel Eagan reported that on February 23, 2015, the Board had received a petition from the San Francisco Bar Pilots for a rate hearing. The Board will take evidence and has one hundred and twenty (120) days to present findings and recommendations to the Legislature. He further stated that the date of the hearing must not be less than 30 days or more than 60 days from receipt

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of the petition. Mr. Eagan recommended April 1, 2, and/or 3 for the hearing with deliberations the week of April 6, 2015.

**MOTION:** Vice President Connolly moved to schedule the rate hearing for April 1, 2015 with possible continuation to April 2<sup>nd</sup> and/or 3<sup>rd</sup>, and adoption of findings and recommendations to take place April 10, 2015. Commissioner Long seconded the motion.

**ACTION:** The motion passed unanimously on a voice vote.

**PRESIDENT JOHNSTON STATED THAT AGENDA ITEM 16 and 17 WOULD BE CONSIDERED IN CLOSED SESSION, AND PROCEEDED WITH AGENDA ITEM 18.**

**18. Report on litigation, CRAIG E. REEDER vs. STATE BOARD OF PILOT COMMISSIONERS, initiated by Capt. Craig E. Reeder on December 17, 2014. – Board Counsel Eagan**

Mr. Eagan had nothing to report on this matter.

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

There was no report.

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

There were no reports from the Pilot Safety Committee.

**THE BOARD TOOK A BRIEF RECESS BEFORE CONTINUING WITH AGENDA ITEM 16 and 17.**

**BEGIN RECESS: 11:25 a.m.**

**END RECESS: 11:37 a.m.**

**THE BOARD THEN WENT INTO CLOSED SESSION TO DISCUSS AGENDA ITEM 16.**

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**BEGIN CLOSED SESSION: 11:38.**

**END CLOSED SESSION AND RETURN TO OPEN SESSION: 12:18 p.m.**

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

There was no report on this item from the closed session.

**17. 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

**21. Public Comment on Matters not on the Agenda**

There were no comments.

**22. Proposals for additions to next month’s meeting agenda**

There were none.

**23. Adjournment**

There being no further business before the Board, the meeting was adjourned at 12:20.

Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini