

Minutes	Monthly Board Meeting	Date:
Open Session		February 27, 2014
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Board members present

RADM Frank Johnston, President, Public Member
 Dave Connolly, Vice President, Public Member
 RADM John Brooks, Public Member
 John Schneider, Wet Cargo Industry Representative
 Capt. Joe Long, Pilot Member
 Capt. Steve Roberts, 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

Pacific Merchant Shipping Association Vice President Michael Jacob, San Francisco Bar Pilot (SFBP) Capt. Steve Teague, SFBP Business Director John Cinderey and SFBP General Counsel Ray Paetzold, Baykeeper Executive Director Deb Self, Retired San Francisco Bar Pilot Capt. Art Thomas and Capt Greg Waugh 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 that a quorum had been established.

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2. Approval of minutes of the January 23, 2014 Board meeting

Board members were presented with the minutes of the January 23, 2014 meeting for approval.

MOTION: Commissioner Roberts moved to approve the minutes from the January 23, 2014 Board meeting with leave for staff to make non-substantive clerical changes. Commissioner Schneider seconded the motion,

ACTION: The motion passed unanimously.

3. Announcements

President Johnston announced that he had not received all appraisals from Commissioners regarding the Executive Director Garfinkle’s performance. The performance appraisal will be addressed at the next Commission meeting.

4. Board member activities

President Johnston reported that the California State Auditor had conducted a follow-up on its 2009 audit recommendations on February 6, 2014.

On February 14, 2014, the Board met in closed session to discuss the findings of the Sate Auditor’s report.

He also reported that members of the Incident Review Committee met with member of the Pilot Evaluation Committee on February 19, 2014 to discuss the role of trainees in IRC investigations.

5. Executive Director’s report

Correspondence and activities since the last meeting:

Executive Director Garfinkle gave a report of the correspondence received by the Board since the January meeting:

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1. Government Code sections 13400 through 13407, known as the Financial Integrity and State Manager's Accountability Act of 1983 (FISMA), was enacted to reduce the waste of resources and strengthen accounting and administrative control. On December 27, 2013 Board staff submitted a Financial Integrity and State Manager's Accountability Act report, reviewing its internal control systems. FISMA requires each state agency to maintain effective systems of internal accounting and administrative control, to evaluate the effectiveness of these controls on an ongoing basis, and to biennially review and prepare a report on the adequacy of the agency's systems of internal accounting and administrative control.
2. On February 26, 2014, Board Staff received a letter from the Department of Finance that its FISMA report had been accepted as written.
3. On January 27, 2014 Board staff received notice that the Board's Pilot Fitness regulations had been approved and will become effective on April 1, 2014.
4. On February 6, Board staff, Ben D'Alba, and Michael Tritz of the California Transportation Agency met with the California State Auditors for an exit conference during which Board staff was allowed to view the draft audit and submit comments.
5. On February 14, 2014 the California State Auditors presented Secretary Kelly with a draft report of the recent Board audit. Board staff was provided an opportunity to respond to recommendations and provide comments on the report. The report will be made available to the public on March 11, 2014.
6. On February 17, 2014, Board staff received a copy of the Section 237(d) data on pilotage and ship movements for the calendar year 2013.
7. On February 18, 2014 Board staff received a Notice of Appeal from David Singelstad, an attorney for Capt. Sweeney, appealing the December 20, 2013 finding of Not Fit for Duty by Board appointed physician Dr. Lawrence Piazza.
8. On February 21, 2014 Board staff received copies of letters from Darrell Steinberg, Senate Rules Committee Chairman, notifying Commissioners Long, Schneider, and Connolly of their Senate confirmation. All three were confirmed by 32 votes to 0.

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9. On February 24, 2014 Board staff received a copy of an Order from the Fair Political Practices Commission Pursuant to Government Code Section 87307, wherein Board Counsel was informed that the Port Agent must be enumerated in the Board’s Conflict of Interest Code as a designated employee. The Board has a right to appeal the decision or seek judicial review of this order.

Board licensing:

Between the December and January Board meetings, staff renewed licenses for Capts. Carlson, Coppo, Robinson, MacLachlan, Carlier, Kelso, Kellerman, Ruff, and Pinetti. Since the January meeting, staff has renewed licenses for Greig, Lingo, Melvin, Roberts, Rocci, Stultz, and Wagner

Board Surcharges:

The Board received a check for \$134,553.03 for surcharges collected by the SFBP, which included the following:

Board Operations Surcharge: \$33,488.03

Continuing Education Surcharge: \$52,275.00

Trainee Training Surcharge: \$48,790.00

Legislative matters:

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

Contractual matters:

Assistant Director Roma Cristia-Plant gave a report of active Board contracts. She reported that the Board’s contract for pension fiduciary calculations will expire on March 31, 2014. The current contractor, Ghirardo CPA is a state certified small business. In order to comply with State of California rules regarding small business contracts, Board staff must get a bid from another small business entity in order to competitively bid the contract.

She also reported that she is working on drafting an interagency agreement to secure medical fitness assessment services from another state agency.

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Investigator contracts will expire March 31, 2014. Ms. Cristia-Plant described the contracting options she is working through to get new contractors in place.

The contract with Artelia Eau & Environment will expire on June 30, 2014. A contract with a manned model training facility will need to be in place by June, 2015 in order for training to take place in the summer of 2015.

6. Port Agent's report

Capt. McIsaac reported that there were two (2) pilots absent for medical reasons (AFMR) during the month of January.

He also reported that there were two (2) minimum rest period (MRP) exceptions since the January 23, 2014 meeting, ranging from 10.3 to 10.7 hours.

Capt McIsaac reported that the P/V DRAKE was out of service from January 31, 2014 while a fuel pump was replaced.

The P/V GOLDEN GATE was taken out of service on February 3, 2014 to repair a port reduction gear valve.

The P/V DRAKE was out of service on February 17, 2014 to repair an alarm panel.

He next presented a report on billed vessel moves during the month of January. Compared to a three-year average, bar crossings were up 5.4% at 546; bay moves were up 8.5% at 106; river moves were down 3.9% at 33; total moves were up 5.4% at 685; and, gross registered tonnage was up 6.4% at 30,447,959 tons.

President Johnston requested a closed session at the end of the meeting to discuss the contents of the Port Agent's confidential Report.

7. Pilot Evaluation Committee

There was no report

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8. Reported safety standard violations

There have been no safety standard violations since the last meeting.

9. Reportable piloting events

A) On October 15, 2013, the ITB MOKU PAHU allided with the New York Slough Channel Marker #7. The 90-day deadline for presenting the report occurred on January 13, 2014. Mr. Garfinkle explained that a draft report has not been issued due to demands on Board Staff, especially the recent audit proceedings. For these reasons, Mr. Garfinkle requested an extension to the March 27, 2014 Board meeting.

MOTION: Commissioner Roberts moved to grant an extension to the March 27, 2014 Board meeting. Vice President Connolly seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

B) 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 90-day deadline for reporting on the incident occurred on February 27, 2014 but, due to demands placed on Board staff resources in responding to the California State Auditor, Mr Garfinkle requested an extension.

MOTION: Commissioner Roberts moved to grant an extension to the march 27, 2014meeting. Vice President Connolly seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

10. Pilot Fitness Committee

Chairman Miller was not present at the meeting. Mr. Garfinkle reported that the Committee had not met since the last Board meeting, but he, Chairman Miller and Board Counsel Eagan are having active discussions with potential providers to conduct a fatigue study.

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11. Low Sulfur Fuel

Mr. Garfinkle gave a report on loss of propulsion due to fuel switching based on information he had received from Capt. Jeff Cowan of the Department of Fish and Game Office of Spill Prevention and Response. During the month of January, there were 11 loss of propulsion incidents, none of which were determined or suspected to be related to fuel switching.

12. Ad Hoc Committee on Blue Card Rates

Chairman Miller was not present for the Board meeting. Mr. Garfinkle gave a report on the Ad Hoc Committee meeting, stating that Pacific Merchant Shipping Association Vice President Mike Jacob had provided suggested language regarding the outstanding “delay enroute” charge. The Committee is considering his suggestions and will meet again in the future.

13. Board consideration of cost of living adjustments to pensions

Mr. Garfinkle reported that the difference in the Consumer Price Index between a one-year period vs. a point-to-point measurement (December-December) is 7.7 vs. 7.9. Board members discussed the merits of each method of calculation. Mr. Jacob submitted a letter from Pacific Merchant Shipping Association (PMSA) objecting to an increase in the pilot pension. They find it a fundamental problem that the Board does not have a regulation in place for pension increases and that statute dictates that the Board review section 1163 of the Harbors and Navigation Code each time a pension increase is considered.

Board Counsel Eagan replied that the Board is not required to review section 1163, but to review the pension benefit that is provided.

MOTION: Commissioner Long moved to use the point-to-point method of calculating the pension as in the past. Vice President Connolly seconded the motion, adding that it adheres to statute and is the industry standard for benefit calculations.

ACTION: The motion passed unanimously on a voice vote.

MOTION: Commissioner Roberts moved that the Board concur and grant a pension increase in the amount of 50% of the cumulative increase in the San Francisco-Oakland-San Jose Consumer Price Index. Commissioner Connolly seconded the motion.

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ACTION: The motion passed unanimously on a voice vote.

14. Report on United States Coast Guard Medical Certificate

Mr. Garfinkle reported on the United States Coast Guard's new Standards of Training and Watchkeeping procedures for first class pilots.

Vice President Connolly thanked Mr. Garfinkle for his report and stated that he still had questions regarding the applicability of STCW to first class pilots. After spending time thinking about it, he has not been able to come to a definitive conclusion.

15. Performance evaluation of executive director

Not all comments had been received from Commissioners. This item will be addressed at the March 27, 2014 Board meeting.

16. Public comment on matters not on the agenda

Mr. Jacob noted that the decision of the Fair Political Practices Commission with regard to Public Information Act requests as they apply to the Port Agent did not appear on the agenda and encouraged the Board to take action at the next meeting.

17. Proposals for additions to next month's agenda

There were none.

The Board then went into closed session to discuss agenda item #7, Port Agent's Report. The 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.

BEGIN CLOSED SESSION: 10:58 a.m.

END CLOSED SESSION: 11:58 a.m.

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

RESUME OPEN MEETING: 11:59 a.m.

18. Adjournment

There being no further business before the Board, the meeting was adjourned at 12:00 p.m.

Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini