

<p style="text-align: center;"><b>Minutes</b></p> <p style="text-align: center;"><b>Open Session</b></p>	<p style="text-align: center;"><b>Monthly Board Meeting</b></p>	<p style="text-align: center;"><b>Date:</b></p> <p style="text-align: center;">May 22, 2014</p>
<p><b>Location:</b> Board Offices at 660 Davis Street, San Francisco, CA 94111</p>	<p style="text-align: center;"><b>Page 1 of 11</b></p>	

**Board members present**

Dave Connolly, Vice President, Public Member  
 John Schneider, Public Member  
 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 (PMSA) Vice President Michael Jacob, San Francisco Bar Pilots (SFBP) Business Director John Cinderey, and SFBP General Counsel Ray Paetzold were among the public present.

**1. Call to order and roll call**

The meeting was chaired by Vice President Connolly, 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 April 24, 2014 Board meetings**

Board members were presented with the minutes of the April 24, 2014 meeting for approval.

**MOTION:** Vice President Connolly suggested a change to the record to reflect the discussion regarding air draft at the meeting more accurately and moved to approve the April 22, 2014 minutes as amended. Commissioner Roberts seconded the motion.

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

**3. Announcements**

Vice President Connolly announced that it was National Maritime Day and read from President Obama’s Maritime Day Proclamation.

*America's open seas have long been a source of prosperity and strength, and since before our Nation's founding, the men and women of the United States Merchant Marine have defended them. From securing Atlantic routes during the naval battles of the Revolutionary War to supplying our Armed Forces around the world in the 21st century and delivering American goods to overseas markets in times of peace, they have always played a vital role in our Nation's success. During National Maritime Day, we celebrate this proud history and salute the mariners who have safeguarded our way of life.*

*Today's Merchant Marine upholds its generations-long role as our "fourth arm of defense." Yet they also go beyond this mission, transporting food where there is hunger and carrying much-needed supplies to those in distress. Thanks to our dedicated mariners, people around the world continue to see the American flag as a symbol of hope.*

*To create middle-class jobs and maintain our leading position in an ever-changing world, we must provide new marketplaces for our businesses to compete. As we expand commerce, we do so with confidence that the United States Merchant Marine will keep our supply lines secure. Because just as America's workers and innovators can rise to any challenge, our mariners have demonstrated time and again that they can meet any test. Today, let us reaffirm our support for their essential mission.*

*The Congress, by a joint resolution approved May 20, 1933, has designated May 22 of each year as "National Maritime Day," and has authorized and requested the President to issue annually a proclamation calling for its appropriate observance.*

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**4. Board member activities**

Commissioner Long reported that he had observed the ultra-large container vessel towing exercise which took place in the San Francisco Bay on May 21, 2014. With him in attendance were SFBP Port Agent Capt. Pete McIsaac, Executive Director Garfinkle, and the Honorable Mark Rosekind of the National Transportation Safety Board. He indicated the demonstration was useful and the group discussed meaningful safety issues over lunch.

**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 March meeting:

Mr. Garfinkle announced two items that he had not mentioned at the last meeting. On April 10, 2014, Board staff received a copy of a letter to Senator Jim Beall, chairman of Senate Budget Committee #3, and Assembly Member Richard Bloom, Chairman of Assembly Budget Subcommittee #2, signed by both Mike Jacob, PMSA Vice President and Pete McIsaac, SFBP President regarding funding for the Pilot Fatigue Study.

A second letter was received from Capt. Renee Peinado, who expressed his pleasure at hearing that there are openings in the pilot trainee program this year, and advised Mr. Garfinkle that he will be proceeding into the program pursuant to the terms of a 1996 stipulation for settlement and mutual release agreement between himself and the Board that, among other things, included a provision to allow Mr. Peinado to take the pilot trainee exam offered in 1993. Mr. Garfinkle indicated that Mr. Peinado has yet to produce documentation of sufficient sea time to participate in the 1993 exam process as allowed for in the agreement.

On May 14, 2014, Mr. Garfinkle delivered a presentation at a conference hosted by the Department of Fish and Game, Office of Spill Prevention and Response. He discussed the new pilot fitness regulations that became effective April 1, 2014.

On May 21, 2014, Mr. Garfinkle met with the Honorable Mark Rosekind of the National Transportation Safety Board, and his assistant, Patrick Lally. Dr. Rosekind has been providing guidance to the Pilot Fitness Committee on various issues involved with pilot fatigue, and was

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in San Francisco on unrelated business. He was able to take time out of his busy schedule to observe a towing demonstration of an ultra-large container vessel from the pilot boat and discuss various safety issues surrounding marine transportation.

Also on May 21, 2014, Mr. Garfinkle had a telephone discussion with Heidi Lincer-Hill, of the Office of Professional Exam Services at the Department of Consumer Affairs (DCA), formerly called the Office of Examination Resources (OER). Regulations call for pilot trainee exams to be developed and administered by the Board in conjunction with the Office of Examination Resources or by equivalent psychometricians, and reviewed by OER. Ms. Lincer-Hill, who is familiar with Dr. Hertz's qualifications and is aware that Dr. Hertz is developing and administering the upcoming pilot trainee examination, declined to review our exam, and advised Mr. Garfinkle that the Board should revise its regulations to remove references to the Office of Professional Exam Services in favor of just having a qualified psychometrician to develop and administer the exam, which would meet the spirit of the regulations, as DCA desires to no longer offer such services.

Vice President Connolly reviewed the news release from the U.S. Coast Guard regarding the ultra-large container vessel demonstration and inquired how it came about. Mr. Garfinkle explained that members of the Harbor Safety Committee expressed concerns regarding available resources to conduct such an operation should a loss of propulsion on one of these ship occur offshore. The demonstration was made possible through the generosity of CMA-CGM, which offered the use of one of its ultra-large container vessels. The pilots and three tug companies also generously provided their services able to make this exercise happen. Commissioner Roberts reported that Artelia Eau and Environment has been contacted regarding this matter, and the manned model training facility will attempt to replicate an ultra-large container vessel drill with its model ships.

**Board licensing:**

Mr. Garfinkle stated that between the March and April Board meetings, staff renewed licenses for Capts. Gabe, Fuller, Tylawsky and Horton.

Mr. Garfinkle further stated that since the April Board meeting, staff has renewed licenses for Capts. Livingstone, Weiss, McCloy, and Chapman.

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**Board Surcharges:**

Mr. Garfinkle reported that the Board received a check for \$122,896.32 for surcharges collected by the SFBP, which included the following:

Board Operations Surcharge: \$30,386.32

Continuing Education Surcharge: \$47,850.00

Trainee Training Surcharge: \$44,660.00

**Legislative matters:**

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

**Contractual matters:**

Assistant Director Roma Cristia-Plant reported on upcoming Board contracts, and indicated staff is working with contract staff at the California Highway Patrol (CHP) to procure contracts for incident investigators. She indicated that the procurement process will involve an invitation for bid process, which will be input to Bidsync, the State of California's procurement website site.

Ms. Cristia-Plant also stated that there will be an invitation for bid procurement process for the next surcharge auditor, and that the initial paperwork has been submitted to the contract staff at CHP.

She briefly indicated to the Board that staff have also been working with CHP staff to procure manned model training services, and that CHP has recommended using a request for interest/request for proposal process. The entire process should be over by early 2015. However, Board staff is also seeking an extension to its current contract with Artelia Eau and Environment, which will provide a little breathing room in case the request for proposal process takes longer than anticipated. The contract has already been amended two times: once to extend for time and money, and once because the name of the entity changed. She indicated that she will further discuss manned model training procurement later in the meeting when discussing agenda item #11.

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**6. Port Agent’s report**

Capt. McIsaac reported that there were four (4) pilots absent for medical reasons (AFMR) during the month of April.

He also reported that there were 31 minimum rest period (MRP) exceptions during the month of April. He provided a copy of the SFBP MRP worksheet and explained that the large number of exceptions was due to a combination of an increase in shipping activity, several assignments requiring extra piloting time or additional pilots, and four pilots AFMR during a training period.

Capt. McIsaac reported that the P/V PITTSBURG was out of service from May 7, 2014 through May 16, 2014 for unscheduled repairs on both main engines and the wet exhaust line, and the P/V SAN FRANCISCO was out of service from April 17, 2014 until May 5, 2014 due to a coupling failure in the port reduction gear.

He next reported that, while outbound through the Golden Gate, the loaded tanker M/T GOTLAND SOFIA suffered an engine failure. Capt. Tom Burger, the pilot on board requested immediate assistance from an escort tug and elected to stop the vessel by turning it 180 degrees. He credited his manned model training for giving him the knowledge that turning a vessel is much more effective in slowing it down than simply using a tug for brakes.

**7. Pilot Evaluation Committee**

Capt. Nyborg reported that the Pilot Evaluation Committee (PEC) met on May 21, 2014. He reported that both pilot trainees have excelled in the Pilot Training Program and are exceeding their performance benchmarks.

The current pilot trainees include Sam D’Aloisio, and Cevan LeSieur. Their time in the program ranges from 14 to 15 months. Sam D’Aloisio has completed 2 months in Evaluation Phase status, and has been carrying and using a navigation laptop as part of his daily training. Capt. Nyborg indicated that if he continues to perform at his current pace, he will qualify to be recommended to have successfully completed the training program by next month. He asked that the Board be prepared to hear such a recommendation at that time.

Capt. Nyborg advised the Board that Capt. D’Aloisio and Capt. LeSieur are currently scheduled to attend manned model training at Artelia Eau this June. He further explained that the first manned model training session puts to practical use the years of study required by trainees in

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the Pilot Training Program. He further indicated that providing manned model training to pilot trainees before they begin their work as a solo pilot is one of the most important steps that the Board can take to ensure that a new pilot is prepared for the many challenges he will face when he begins to pilot alone.

Capt. Nyborg also reported that the 2014 Pilot Trainee Exam development is currently on track for completion by mid June. On June 17<sup>th</sup>, PEC will meet for a final simulator test development day at CMA. He reported that projected through exam week, the SFBP will have expended 148 pilot days in the development of the written and simulation exams, and removed pilots from piloting or earned pilots compensating time off. He indicated that future pilot training exam manpower considerations should include the impacts to pilots during those years that the exam is offered.

Capt. Nyborg stated that as a retired pilot, Capt. Gates' involvement in this year's pilot trainee examination development has drastically reduced the impacts of the exam development and testing workload to pilot power. He further stated that without Capt. Gates' involvement in the examination process, the PEC Chairman would have been almost completely removed from piloting duties for the prior 3 months. He encouraged the Board to consider a contract with someone such as Capt. Gates to be part of the future pilot trainee examination planning and development process, including the development of a fictitious port and population of vessels, and to ensure that a contract is in place in sufficient time to allow a contractor to adequately perform such services.

Capt. Nyborg reported that the PEC is working on the development of a guideline for trainees who are witness to, or involved in a reported piloting incident. It was agreed that PEC would draft a guideline for review by the Board. He reported that the draft guideline is now complete, and asked the Board to consider placing a review and discussion of the guideline on the agenda for the next Board meeting.

The next PEC meeting is scheduled for June 18<sup>th</sup>.

**8. Reported safety standard violations**

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

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**9. Reportable piloting events**

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 the priority demand of evaluating exam applications, Mr. Garfinkle requested an extension until the June 19, 2014 Board meeting.

**MOTION:** Commissioner Long moved to grant an extension to the June 19, 2014 meeting. Commissioner Roberts seconded the motion.

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

**10. Low-Sulfur Fuel Report**

Executive Director Garfinkle shared the report on loss of propulsion due to fuel switching provided by the Department of Fish and Game Office of Spill Prevention and Response.

Vice President Connolly asked if there was any further information regarding the location of these incidents in the Bay. Mr. Garfinkle reported that the information is disseminated by the U.S. Coast Guard at monthly meetings of the Harbor Safety Committee; however, he was not present at the last meeting and was unable to provide further insight.

**11. Report on the status of contracting process for pilot continuing education manned model training.**

Ms. Cristia-Plant discussed the contract procurement process and contract status of the current manned model training contract with Artelia Eau & Environment (Artelia), and indicated that the contract has been amended once to change the contractor’s name and a second time to extend the contract for one year. She reported that the current contract with Artelia also allows for a second one-year extension, but that given procurement anomalies with the Artelia contract, CHP is recommending procuring a new manned model training provider instead of extending the current contract with Artelia. She explained that CHP is recommending utilizing an involved request for interest/request for proposal procurement process that is projected to take approximately eight months or longer to complete. She indicated that CHP did check with the Department of General Services, and obtained a legal opinion that the current contract with Artelia could be extended for a second one-year period. She suggested that the Board could



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consider approving a one-year extension of the Artelia contract, which would give staff sufficient time to work with CHP on a thorough request for interest/request for proposal process to select the next manned model training provider. Mr. Garfinkle expanded upon Ms. Cristia-Plant's presentation, describing in further detail the existing Artelia contract process and the historical procurement issues concerning CHP.

**MOTION:** Commissioner Long moved to approve a one-year extension to the current contract with Artelia, and Commissioner Roberts seconded the motion.

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

**12. Implementation of Pilot Fitness Regulations**

Mr. Garfinkle reported on the status of the contract with University of California San Francisco Campus of Occupational and Environmental Medicine (UCSF), and apprised the Board that a contract was fully executed and approved by the Department of General Services on May 9, 2014. He stated that staff anticipates meeting with representatives of the UCSF in the coming week to establish protocols and define toxicological tests.

He further indicated that Board staff will develop a fitness determination procedure handbook for pilots as soon as possible after meeting with UCSF.

**13. Report on Public Records Act Litigation**

Regarding the Public Records Act litigation, PMSA v. BOPC and Peter McIsaac as Port Agent, Board Counsel Eagan reported that the superior court had ordered the Port Agent to pay attorney fees and costs in the approximate amount of \$260,000 but had denied PMSA's request for attorney fees and costs against the Board. Following the report, the Board considered this matter in closed session.

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**14. Report on Fair Political Practices Commission decision to include Port Agent in Board’s Conflict of Interest Code. Possible Board action.**

Mr. Eagan reported that the Board has filed an appeal with the Fair Political Practices Commission regarding its determination that the Port Agent should be included in the Board’s conflict of interest code, and that the appeal will be considered at its July meeting.

**15. Report on the April 26, 2012 appeal by Capt. Craig Reeder of the Board’s denial of his application for an inland pilot pension.**

The Board has put this item over to the June, 2014 meeting due to a delay in Capt. Reeder receiving the staff report.

**16. Incident Review Committee report on the M/V ESSEX STRAIT**

Consideration of this item was extended to the June 19, 2014 meeting. See agenda item #9.

**17. Board review of formal decision on ITB MOKU PAHU**

The Board considered this item in closed session. The Board approved the formal decision prepared by staff counsel, which included findings of fact and conclusions memorializing the Board's decision on this matter at its meeting of April 24, 2014.

**18. Public Comment on Matters Not on the Agenda**

There were no comments.

**19. Proposals for Next Month’s Agenda**

Vice President Connolly expressed his desire to include in future agendas a “lessons learned” entry so that best practices can be promulgated following an incident or near-miss.

**The Board took a 10-minute recess at 11:05 a.m.**

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**The Board then went into closed session to discuss agenda items 13, 15 and 17.**

**BEGIN CLOSED SESSION: 11:15 a.m.**

**END CLOSED SESSION: 12:20 p.m.**

**It was noted that a quorum was present during the closed session.**

**RESUME OPEN MEETING: 12:20 p.m.**

**20. Adjournment**

There being no further business before the Board, the meeting was adjourned at 12:22 p.m.

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Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini