

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

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**BOARD OF PILOT COMMISSIONERS  
BOARD MEETING  
MINUTES  
May 24, 2012 9:30 a.m.**

**OPEN MEETING:**

**1) Call to Order and Roll Call – President Miller**

President Knute Michael Miller called the meeting to order at 9:31 a.m. Vice President Frank Johnston and Commissioners Steve Roberts, David Wainwright, Eric Osen, John Cronin, and John Brooks were present, constituting a quorum. Business, Transportation and Housing Agency (BTH) Acting Secretary Brian Kelly 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 Staff Services Analyst Kelly Dolcini. San Francisco Bar Pilots (SFBP) Acting Port Agent Capt. Pete McIsaac also was seated at the Commission table.

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

President Miller requested approval of the minutes of the April 2 continuation of the March 22, 2012 Board meeting. Vice President Johnston moved approval of the minutes as amended with authority to Board staff to make clerical, non-substantive changes. Commissioner Wainwright seconded the motion, which passed unanimously on a voice vote.

President Miller requested approval of the April 26, 2012 Board meeting. Vice President Johnston moved approval of the minutes as amended with authority to Board staff to make clerical, non-substantive changes. Commissioner Wainwright seconded the motion, which passed unanimously on a voice vote.

**3) Announcements – President Miller**

There were none

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

President Miller and Vice President Johnston announced that on May 10, 2012 they had attended the annual “May Day” reception sponsored jointly by the San Francisco Marine Exchange and the Port of San Francisco. President Miller noted that the event also was attended by Executive

Director Garfinkle, Staff Services Analyst Kelly Dolcini, and a Board-contracted investigator, Capt. Gary Toledo, as well as Mr. John Berge, a vice president of the Pacific Merchant Shipping Association.

President Miller announced that on May 16, 2012 he had attended the Coast Guard Foundation Pacific Area Award and Reception event and that he had been an Honorary Committee Member with respect to the event.

Finally, President Miller reported that, having been uncertain about the reporting requirements with respect to three baseball tickets he had won in a raffle conducted by the San Francisco Bar Pilots Association as part of its annual event in support of the San Francisco Firefighters Toy Program, he had sought the advice of the California Fair Political Practices Commission staff. They had advised him that the value of the tickets, net of the purchase price of the winning ticket (\$1.00) must be reported. Whereupon President Miller had amended his 2011 FPPC Form 700 disclosure document to report the net value of the baseball tickets, and had filed the report with the Board's Executive Director. President Miller explained that he had not received the tickets until April 12, 2012 and had not known the value of the tickets at the time of filing his original 2011 Form 700.

Vice President Johnston reported that he had attended a meeting of the Port Planning Commission to discuss the future of the waterfront.

Vice President Johnston also reported that he will be attending a memorial service for Capt. Frank Medeiros aboard the Jeremiah O'Brien.

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

### **A) Correspondence and activities since the April 26, 2012 meeting.**

1. On April 27, 2012, Executive Director Garfinkle received a copy of a letter from Conte Cicala to Brian Kelly, Acting Secretary of BTH notifying Secretary Kelly that his client, Pacific Merchant Shipping Association (PMSA) intendeds to initiate a lawsuit of the Board of Pilot Commissioners (BOPC) for non-compliance with Public Records Act requests.
2. On May 11, 2012, Board staff received instructions from BTH to inventory and tag all state property as well as instructions to create state property management and control procedures.
3. On May 11, Board staff received a proposal from California Maritime Academy staff describing their proposed curriculum and stating their interest in working with the BOPC and SFBP on continuing education for the pilots.
4. On May 15, staff received notice that the State Lands Commission would be holding a meeting, today, May 24, 2012, at 10 a.m. in Sacramento. The agenda was available for those who were interested in viewing it.

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

1. Between the March and April Board meetings the Board staff renewed licenses for the following pilots: Captains Fuller, Kirk, Martin, and Pinder.
2. Since the April Board meeting staff has renewed licenses for Captains Hurt, McCloy, Horton, Chapman, Tylawski, Sweeney, and Wehr.

C) For the month of March the Board received a check for \$206,051.34 broken down as follows:

1. Pilot Commission Charge: \$96,728.34
2. Pilot Training Surcharge: \$71,505.00
3. Trainee Surcharge: \$37,818.00

D) Report on legislative activities and contractual matters.

Legislative Activities:

1. A.B. 2042 (Huber) is in the Senate and was referred to the Committee on Governmental Organization on May 22, 2012.
2. S.B. 1408 (Blakeslee) is in the Assembly Committee on Appropriations on May 21, 2012.
3. A.B. 2287 (Swanson) was in the Assembly and re-referred to the Committee on Appropriations on May 2, 2012.

Contractual Matters:

1. Board staff is working on a contract with California Maritime Academy for further ARINC training (self-contained portable piloting units) for eight more pilots, with the class to be held July 11, 2012.
2. Staff received a proposal from California Maritime Academy (CMA) to provide the Board with the Combination Course. SFBP Professional Development Committee met with CMA staff to discuss specific aspects of the course.
3. Staff is preparing to renew the surcharge audit contract with an IFB proposal being prepared at the California Highway Patrol Contract Services Unit.
4. On staffing matters, Board staff has received approximately 30 applications for the position of Office Technician. Staff will review the applications and interviews will be scheduled.

## **6) Port Agent's Report – San Francisco Bar Pilots (SFBP) Acting Port Agent Captain Peter McIsaac**

- A. Capt. McIsaac reported that billed vessel moves in April, when compared to a three year average, were as follows: 521 bar crossings (down 3.4%), 96 bay moves (down 8%), and 38 river moves (up 38%), making the total billed moves in February 659 (down 2.3%) with a gross registered tonnage of 27,245,634 (up 4.3%). When compared to April 2011, bar crossings are down 7%, total moves are down 5.8% and GRT is down 2.3%.
- B. Monthly report on pilot availability and absences.

Captain Morgan Hoburg is on medical disability leave per the BOPC. Captain Sean Gabe is absent for medical reasons

- C. Monthly confidential written report of pilots who have been absent for medical reasons (AFMR) presented to Board.

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) Pilot Evaluation Committee – Captain E. Nyborg**

- 1. Captain Nyborg was unable to attend the meeting. Acting Port Agent (Capt.) McIsaac delivered the report for Capt. Nyborg stating that all trainees are progressing well at this time. The next PEC meeting is scheduled for June 20.
- 2. There was no recommendation to grant a certificate of completion to one or more trainees.
- 3. There was no recommendation to grant an initial license to any applicant.

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

No reportable safety standard violations since last meeting. (Reports received between the issuance of this notice and the meeting will be reported.)

There were no reports received between issuance of this notice and this meeting.

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

- A) 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 June 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 responses to inquiries from the Department of Finance, in connection with pending legislation. Additionally, a delay was requested by each of the attorneys representing each of the pilots involved because they had experienced delays in securing documents from the Port of Stockton which were the subject of a Public Records Act request. Commissioner Cronin moved to grant an extension to June 28, 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.

B) 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 June 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 Legislative budget hearings. Commissioner Wainwright moved to grant an extension to June 28, 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 with five Commissioners voting in the affirmative, Commissioner Osen voting "no" and Vice President Johnston abstaining.

C) 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. Request for an extension from the Board to present this report at the June 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 responses to inquiries from the Department of Finance in connection with pending legislation. Commissioner Wainwright moved to grant an extension to June 28, 2012. Commissioner Cronin seconded the motion. President Miller called for discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously on a voice vote, Vice President Johnston abstaining.

D) Status report of the M/V MULBERRY WILTON interaction with the M/T OVERSEAS TAMPA while passing Plains Terminal, Martinez, on January 27, 2012. Request for an extension from the Board to present this report at the May 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 responses to inquiries from the Department of

Finance in connection with pending legislation. Commissioner Wainwright moved to grant an extension to June 28, 2012. Commissioner Cronin seconded the motion. President Miller called for discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously on a voice vote, Vice President Johnston abstaining.

E) Status report of the OVERSEAS TAMPA alleged near miss while departing Richmond Long Wharf Berth #2 on February 18, 2012.

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 responses to inquiries from the Department of Finance in connection with pending legislation. Commissioner Wainwright moved to grant an extension to June 28, 2012. Commissioner Cronin seconded the motion. President Miller called for discussion by the Board and comments by the public. There were none. Whereupon the motion passed unanimously on a voice vote, Vice President Johnston abstaining.

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

Commissioner Wainwright reported that the Rules and Regulations Committee is meeting jointly with the Pilot Fitness Committee approximately every two weeks, with the last meeting held on May 17, 2012. They are nearly finished with the regulation and forms writing but will need to complete a final review and an economic and fiscal impact analysis.

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

There was no report.

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

Commissioner Roberts reported that the Committee met on May 15, 2012 and discussed DMV "pull notices" (a retrieval of a persons driving record) and how to apply them to SFBP trainees and pilots.

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

There was no report.

#### **14) Ad Hoc Working Group on Trainee Recruitment – Commissioner Wainwright**

There was no report. Ex-Commissioner Ben Tate has stepped down from the Committee and Barbara Price has agreed chair this Committee.

#### **15) Continuing Education Committee – Commissioner Roberts**

Commissioner Roberts reported that California Maritime Academy had submitted a proposal to teach the combination training course for BOPC. He also reported that an ARINC training would take place at CMA on July 11, 2012 and that there is a group of pilots attending training at Port Revel Shiphandling Center with another group attending in June. He requested asked that members of this Committee stay a few moments after the Commission meeting to discuss dates for the next Continuing Education Committee meeting.

#### **16) Pilot Power Committee – Commissioner Roberts**

Commissioner Roberts reported that the Committee had not met since the last Board meeting but that he would like to send out another retirement survey and continue to do so every six months.

#### **17) Ad Hoc Committee on Blue Card Rates – Vice President Johnston**

There was no report.

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

There was no report.

#### **19) Proposal and discussion of project by Board staff to digitize past IRC reports in an effort to make them more accessible and searchable through the use of keywords – Executive Director Garfinkle**

Executive Director Garfinkle reported that he is interested in contracting with a company to digitize all past IRC reports for ease of use. Currently all reports are in a paper format and searchable only by date or ship name. Board staff proposes to contract out for services to enter the information into a database to increase their value to the Commission. Commissioner Wainwright moved to grant staff the authority to contract with a provider to digitize records. Commissioner Cronin seconded the motion, which passed unanimously on a voice vote.

#### **20) Retirement of California Maritime Academy President William B. Eisenhardt. – Commissioner Wainwright**

Commissioner Wainwright noted that CMA President Bill Eisenhardt will conclude an 11 year tenure at the Academy by retiring at the end of the current academic year. Commissioner Wainwright suggested that the Board staff prepare a letter for the Board to send to President Eisenhardt noting his service on the Board's Ad Hoc Committee on Pilot Selection and more

generally his service to the regional marine community. The Board discussed the proposal. Commissioner Wainwright moved that the Board direct its staff to prepare a letter to President Eisenhower. Commissioner Cronin seconded the motion. President Miller called for further discussion by the Board and comments from the public. There were none. Whereupon the motion passed unanimously on a voice vote. The letter will be drafted for the June 28 meeting.

**21) Presentation of a request for disability pension by San Francisco Bar Pilot Capt. Morgan Hoburg – Executive Director Garfinkle**

President Miller announced that the Board would not consider Agenda Item 21 at this meeting. However, it would be on the agenda for the June meeting.

**President Miller announced that the Board would take a 10 minute recess. The Board stood in recess at 10:38 a.m.**

**The Board returned to open session at 10:54 a.m.**

President Miller announced that by inspection all Commissioners had returned and that a quorum was present. In addition, Member Morocz was present telephonically from Sacramento.

**22) IRC Incident Report on the M/V THEOTOKOS January 30, 2012 mast allusion with the Union Pacific Railroad Bridge – Vice President Johnston and Executive Director Garfinkle**

Executive Director Garfinkle presented the IRC report on behalf of the Committee. In this incident, the INMARSAT-C antenna on the M/V THEOTOKOS had been damaged when it made contact with the Union Pacific Railroad Bridge. When the surveyor visited the ship to assess the damage he noted that the ship had been given incorrect measurements by the builder which did not accurately describe the mast height. The IRC recommended a finding of no pilot error as Captain Kristopher Laakso had been reasonably relied on the keel to top of mast information provided by the ship.

Commissioner Osen pointed out that it took a long time for the pilot's statement to be forthcoming. Executive Director Garfinkle replied that he learned the mast measurements were incorrect early in the investigation process and that this incident had been given a lower priority than other, more pressing incidents, and he hadn't requested a statement immediately following the incident.

The pilot, Capt. Laakso, was represented by David R. Russo, Esq., of Sterling and Clack, who was invited to speak to the IRC presentations, which he did, in support of the IRC recommendations.

Commissioner Wainwright moved that the Board find no pilot error in the incident. Commissioner Brooks seconded the motion, which passed unanimously with Vice President Johnston abstaining.



### **23) IRC incident report on M/V SOLAR WING damage to Richmond Pier 8 during docking on December 30, 2011 – Vice President Johnston and Executive Director Garfinkle**

Executive Director Garfinkle presented the IRC report on behalf of the Committee. He reported that the pilot, Capt. Dan Bridgman, had had a routine transit to Richmond, but after coming alongside the pier, the docking foreman moved the bridge marker, necessitating shifting the ship up the dock. During this shift, a crew member allowed a spring line to come taut, pulling the hull into the fendering prematurely. When this happened a raised weld on the hull snagged the plastic coating on the fender. The ship and terminal settled the matter and considered it normal wear and tear on the dock. The IRC committee found that Capt. Bridgman had acted reasonably and that the actions of the ship's crew were the cause of the damage. The Committee recommended that this be classified as a non-incident.

The pilot, Capt. Bridgman, was represented by David R. Russo, Esq., of Sterling and Clack, who was invited to speak to the IRC presentations, which he did, in support of the IRC recommendations.

Commissioner Osen again pointed out that it appears to have taken a long time for the pilot's statement to be forthcoming.

Commissioner Roberts moved to affirm a finding on non-incident and that the case be closed. Commissioner Cronin seconded the motion, which passed unanimously with Vice President Johnston abstaining.

### **24) Public comment on matters not on the agenda**

Mr. John Cinderey, Business Director of the San Francisco Bar Pilots, noted that the Board had not been fully staffed for a long period and that it had been hampered in its ability to carry out its responsibilities. President Miller stated that he shared Mr. Cinderey's concerns. Member Morocz reported that the Department of Personnel Management had very recently approved a request to increase compensation for the Assistant Director position, and that he hoped that this change would increase the number and quality of the applicants for the position.

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

Commissioner Roberts asked that the Board at its June meeting formally consider digitizing Board materials in order to conserve resources and minimize environmental impacts.

### **26) Adjournment**

There being no further business to come before the Board, it adjourned at 11:39 a.m.