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| <b>Minutes</b>  | <b>Monthly Board Meeting</b> | <b>Date:</b>    |
| <b>Open Session</b>   |                              | August 28, 2014 |
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**Board members present**

Dave Connolly, Vice President, Public Member  
 Capt. Joe Long, Pilot Member  
 Capt. Steve Roberts, 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**

RADM. Francis Johnston, President, Public Member  
 Vacant, Public Member  
 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. Pete McIsaac; Pacific Merchant Shipping Association (PMSA) Vice President Michael Jacob; San Francisco Bar Pilots (SFBP) Business Director John Cinderey

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

In President Johnston’s absence, Vice President Connolly conducted the meeting. He called the Board 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 July 24, 2014, Board meeting**

Board members were presented with the minutes of the July 24, 2014, meeting for approval. Vice President Connolly requested that the Board review the minutes of both the open and closed session of the meeting.

Board Counsel Eagan requested clarifications and revisions to sections 14 and 17, and Vice President Connolly amended his comments in section 19.

**MOTION:** Commissioner Roberts moved to approve the July 24, 2014, minutes with revisions. Commissioner Schneider seconded the motion.

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

**3. Announcements – President Johnston**

There were no announcements.

**4. Board Member Activities**

Commissioner Long reported that he and the Port Agent had attended a meeting and reception at the California Museum on August 20, 2014 and also met briefly with Governor Brown and Assistant Secretary Ben De Alba.

Vice President Connolly reported that he had had a discussion with Tom Jacobsen of Jacobsen Pilot Service (Long Beach) about maritime safety.

**5. Executive Director’s report**

**Correspondence and activities since the last meeting:**

Executive Director Allen Garfinkle gave a report of the correspondence received by the Board since the July meeting as described below.

On July 25, 2014, Mr. Garfinkle prepared and distributed letters at the behest of the Board expressing the Board’s appreciation and gratitude for the medical assessment services provided by each of the three prior Board-approved physicians: Drs. Piazza, Gunderson, and Ketchum.

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On July 28, 2014, Board Staff received an invitation to the Seaman’s Church Institute annual fundraising cruise aboard the USS POTOMAC to be held on September 25, 2014. Tickets start at \$85 for an individual and go up to \$1500 for an “event sponsor” table for four.

On August 1, 2014, Board staff received Progeny Systems’ final report on the development, administration and results of the Pilot Trainee Training Program exam that was held in late June.

On August 6, 2014, Mr. Garfinkle received an article from Vice President Connolly (posted on marinelink.com), which discussed the maritime risks posed by the new Panama Canal expansion. Mr. Garfinkle indicated the article was written from an insurance point of view, but is valuable in framing all the risks inherent in the expansion of the canal. The article, in which insurers warn of the increased risks from the plan to double the cargo-carrying capacity of ships transiting the canal, was titled “Panama Canal Expansion Poses Billion Dollar Challenge.”

On August 18, 2014, Board staff received a condition and valuation survey appraisal report on the P/V CALIFORNIA. The survey identified two corrective recommendations: life raft and hydrostatic releases had expiration dates approaching, and wing nuts were installed on the batteries, which should be hex nuts. Both items were corrected. The survey also set the vessel fair market value at \$5,150,000 and the replacement value at \$9,100,000. He also gave the Board copies of a recent condition and valuation survey report for the vessel EAGLET, which the SFBP will charter while the P/V PITTSBURG is undergoing service life extension upgrades.

On August 19, 2014, Mr. Garfinkle reviewed Dr. Robert Kosnik’s curriculum vitae and licensing records, and determined that he is qualified to serve as Medical Review Officer for the Board. Dr. Kosnik joins previously approved Drs. Harrison, Seward, and Shusterman. Each doctor is licensed as a physician and surgeon in California, is Board certified as a specialist in occupational medicine, and has over 10 years of experience in occupational medicine.

During the month of August, Mr. Garfinkle received an agenda for a Pacific Admiralty Seminar, hosted by the San Francisco Bar Association on October 9-10, 2014. He indicated that one of the sessions entitled, “The On-Board Investigation: Considerations, Conflicts, And Conundrums” appears to be of particular relevance to the Board, and that he is considering attending the seminar.

Mr. Garfinkle distributed a copy of an article from *Maritime Professional*, “Fuel Management and Safety,” co-written by Capt. Jeff Cowan of the Department of Fish and Wildlife Office of Spill Prevention and Response and Claes Jakobsson a marine engineer focusing on ship emission issues.

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At the end of his presentation, Vice President Connolly thanked Mr. Garfinkle for disseminating the Panama Canal article, and mentioned the article’s relevant focus on risk management and safety issues.

**Board Licensing:**

Between the June and July meetings, staff renewed licenses for Captains Hurt, Slack, Miller, and Nyborg.

Since July, staff has renewed licenses for Captains Laakso, Merritt, Burger, and Kirk.

**Board Surcharges:**

Mr. Garfinkle reported that the Board received a check for \$134,699.05 for surcharges collected by the SFBP, which included the following:

Board Operations Surcharge: \$35,494.05

Continuing Education Surcharge: \$52,025.00

Trainee Training Surcharge: \$47,180.00

**Legislative Matters:**

Mr. Garfinkle reported that there has been no legislation affecting the Board since last meeting.

**Contractual Matters:**

Assistant Director Roma Cristia-Plant reported that a Request for Information for a new Manned Model training contract provider was issued on July 28, 2014, and responses from all six facilities were received by the August 8, 2014 deadline. All facilities indicated an interest to respond to the Request for Proposals when that document is issued.

Ms. Cristia-Plant also reported a Board investigator contract with Capt. Klaus Niem was fully executed effective August 5, 2014, and that an emergency contract is in process for Capt. Niem’s services on an incident that occurred in late July after the end of his previous contract, but before the completion of his present contract. Additionally, she reported that a Board investigator contract with Capt. Jeff Hill is under review by the Department of General Services and is expected to be executed in the near future.

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Lastly, Ms. Cristia-Plant reported to the Board that a new FedEx contract is in progress, and that CHP is working on a new contract for a surcharge auditor.

## **6. Port Agent's Report**

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

- There were 3 pilots absent for medical reasons with one being found fit for duty as of the meeting date.
- There were 24 minimum rest period (MRP) exceptions during the month of June. This was largely due to pilots taking time off the Board for training or assistance with the trainee exam. During the month of July, there was one MRP exception related to a river move, and that the length of the exception was not yet confirmed.
- The P/V SAN FRANCISCO was out of service August 6-August 21 for planned maintenance and repairs.
- The P/V PITTSBURG is to be taken out of service on September 2, 2014, for the planned service life extension project. To offset the costs of the project, the SFBP applied for and received a Carl Moyer Grant from the California Air Resources Board. While the P/V PITTSBURG is dry-docked, the SFBP has chartered the EAGLET.
- The P/V DRAKE will be dry docked beginning September 2, 2014, for planned maintenance and repairs.

When compared to a three-year average, bar crossings were up 0.3% during the month of July at 534. There were 81 bay moves, up 11.2%, and 43 river moves, up 18.8%. Total moves, when compared to a three-year average were up 2.8% at 658, and gross registered tonnage was up 7.3% at 29,636,121. When compared to 2013, total moves are up 4.1% and gross registered tonnage is up 6.4%.

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**7. Pilot Evaluation Committee**

Capt. Einar Nyborg gave a report on Pilot Evaluation Committee (PEC) activities since the last Board meeting, and acknowledged the Committee met on August 20, 2014. He indicated Cevan LeSieur, the current solo trainee, has been in the Pilot Trainee Training Program for 17 months and is progressing well in the evaluation stage. In this stage, he is handling with no input from the supervising pilot unless safety demands such input. After at least three consecutive months of a 4.0 evaluation average, he will qualify for Committee recommendation as a pilot.

The PEC is preparing for the arrival of four new trainees in September. They will attend an orientation at the SFBP on September 2, 2014.

The PEC will next meet on September 17, 2014.

**8. Reported safety standard violations**

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

**9. Reportable piloting events**

A) On May 15, 2014, the TUG Z FIVE was involved in an allision with the Union Pacific Railroad Bridge fendering system while taking part in a dead-ship tow of the USNS PONCHATOULA while the ship was transiting from the Reserve Fleet to Mare Island. The 90-day deadline for reporting to the Board on this incident is August 13, 2014. Mr. Garfinkle asked for an extension of time for the Incident Review Committee (IRC) to complete the incident report due to the necessity to subpoena witnesses. He indicated the subpoenas were served to the witnesses on August 22, 2014.

**MOTION:** Commissioner Long moved that the Board approve an extension of the IRC report to the August, 2014 Board meeting. Commissioner Schneider seconded the motion.

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

B) Mr. Garfinkle reported that there was an incident involving the M/T MINDORO STAR at the Valero Benicia Marine Terminal (BNC 4) with an alleged hard landing on July 26, 2014, that caused damage to the dock. He indicated that the 90-day deadline is October 23, 2014, and that the investigation for this incident is ongoing although the damage did not reach the

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threshold to be considered a serious marine incident and the United States Coast Guard did not conduct an investigation.

### **10. Low Sulfur Fuel**

Mr. Garfinkle gave a report on loss of propulsion due to the suspected impact of low sulfur fuel from data provided by the Office of Spill Prevention and Response. He reported that there were nine (9) loss of propulsion incidents in California during the month of July, 2014. Of those incidents, none were suspected to be related to fuel switching.

There was no Harbor Safety Committee meeting during July, so no report of loss of propulsion incidents in the Bay was available.

### **11. Implementation of Pilot Fitness Regulations**

Mr. Garfinkle reported that there was a bit of a rocky start implementing the new Pilot fitness requirements; however, the medical assessments are going smoothly. He said he believes pilots will need to ensure sufficient time to conduct all parts of the new medical assessment requirements to ensure that fitness determinations are received in time for re-licensing. He also informed the Board that staff worked with all the pilots to complete medical release forms that authorized medical records from previous Board-approved physicians be sent to the University of California, San Francisco (UCSF) medical team. Lastly, Mr. Garfinkle apprised the Board that the contract with UCSF is solid, and that, excepting issues with timing and communication, Board staff has a good working relationship with UCSF medical staff.

### **12. Report of Pilot Fitness Committee**

Mr. Garfinkle summarized a Pilot Fitness Committee report on behalf of Chairman Knute Michael Miller who was not present at the meeting. Mr. Garfinkle reported that a sub-committee of the Pilot Fitness Committee made up of Mr. Miller and Board staff had discussions with three sleep experts since the last Board meeting, and the researchers had various opinions on the usefulness of actigraphy as it relates to the Board's statutorily-required fatigue study. Given the varying answers regarding the necessity to utilize actigraphy in the fatigue study, Mr. Garfinkle suggested that the Board might wish to consider requesting researchers to submit proposals for how each would best conduct a fatigue study. Board Counsel Eagan indicated that one of the experts stated that sleep science research is incomplete as it relates to workers who have irregular work schedules, such as the BOPC-licensed pilots, as compared to regular shift workers, and that

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the researcher thought that the actigraphy results would validate the study results and recommendations.

Commissioners Schneider, Roberts and Long discussed various fatigue study issues, including the need for actigraphy, the small sample size, and the applicability of mathematical modeling. Commissioner Long requested that the Committee’s draft report be clarified to more accurately reflect the Committee meeting telephone conversation with Dr. Czeisler on July 23, 2014. Mr. Garfinkle indicated that the report presented to the Board was a draft. Mr. Jacob reminded the Board that AB 1408 did not authorize a follow-up study confirm fatigue study findings after the statutorily-required fatigue regulations are in place.

Mr. Garfinkle indicated to the Board that the Committee will continue to study the issue.

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

Board Counsel Eagan had no report on the Public Records Act litigation. He requested an amendment to the minutes of the July 23, 2014 Board meeting to refer to the “Superior” Court.

**MOTION:** Commissioner Roberts moved to approve the minutes of the July 23, 2014, Board meeting as amended by Board Counsel Eagan. Commissioner Long seconded the motion.

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

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

Board Counsel Eagan requested a closed session to discuss matters of attorney-client privilege relating to this item.

**15. Board discussion of best practices in maritime safety.**

Vice President Connolly was gratified to see the issue of maritime safety on the agenda, although the Pilot Safety Committee had not met since the last Board meeting. He apprised the Board of the purpose of the Pilot Safety Committee to consider best safety practices in the industry that have developed in recent years. He explained that the BOPC incident investigation and reporting system is designed to assign individual blame for the occurrence of an incident, rather than to



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examine what lead up to an error that caused an incident, and recommend practices or procedures to reduce the likelihood of further incidents.

Vice President Connolly further reported that he had recently discussed the issue of maritime safety with Tom Jacobsen of Jacobsen Pilots, located in Long Beach. He reported on some of the safety measures employed by Jacobsen such as annual audits, check rides, air gap sensors, and sector range lights.

Commissioner Long announced that, although he supports the work and progress of the Pilot Safety Committee, he will be stepping down as chairman due to his other commitments to the SFBP and BOPC. Commissioner Roberts has agreed take over as Committee chair.

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

There were none.

**17. Proposals for Next Month's Agenda**

Commissioner Roberts requested the Finance Committee consider increasing the trainee stipend, and Commissioner Schneider, Chairman of the Finance Committee, acknowledged his request.

**THE BOARD THEN WENT INTO CLOSED SESSION TO DISCUSS AGENDA ITEM 14.**

**BEGIN CLOSED SESSION: 11:20 a.m.**

**END CLOSED SESSION: 11:50 a.m.**

Vice Chairman Connolly stated that there was no report from the closed session.

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**18. Adjournment**

There being no further business before the Board, the meeting was adjourned at 11:52 a.m.

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Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini