

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

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**BOARD OF PILOT COMMISSIONERS
MINUTES**

**May 27, 2010
9:30 A.M.**

OPEN MEETING**Call to Order and Roll Call-9:30 a.m.**

President Miller, Vice President Johnston, Commissioners Tate, Roberts, Wainwright, Osen and Sullivan were all present, constituting a quorum. Ex officio member Dale Bonner, Secretary of the Business, Transportation and Housing Agency was represented by Deputy General Counsel Gabor Morocz. Also present were Port Agent Captain Peter McIsaac, Dennis Eagan (Board Counsel), Raymond Paetzold (Maritime Counsel), Executive Director Allen Garfinkle and Assistant Director Nancy Hall Bennett.

1) Approval of Minutes

There was a motion and second to accept the April 22nd, 2010 regular Board meeting minutes as presented. The motion was passed by a unanimous voice vote.

2) Announcements – President Miller

President Miller called the meeting to order and welcomed Assistant Director Bennett back from maternity leave.

President Miller reported that he appeared at an Assembly Budget Subcommittee (Number 5) hearing on May 12 and that he and Executive Director Garfinkle attended a Senate Budget Subcommittee (Number 2) meeting on May 13 but was not called to testify. Later on that day, President Miller and Executive Director Garfinkle met with accounting staff of the California Highway Patrol concerning the Board's budget.

3.) Board member Activities - Board Members

Reports by board members having board business related activities since the last board meeting or planned prospectively.

- President Miller stated that he and Commissioners Johnston and Roberts attended a reception sponsored by the San Francisco Marine Exchange on May 13.

- President Miller stated that he and Commissioners Johnston and Tate attended a “hail and farewell” luncheon sponsored by the San Francisco Bar Pilots Association on May 19.
- Vice President Johnston stated that he attended the graduation ceremony of the class of 2010 at the California Maritime Academy in Vallejo.

There were no other reports.

4) **Executive Director’s Report** – Executive Director Garfinkle

A) Correspondence and activities since the April 22, 2010 meeting.

- Letter received from the State Attorney General regarding Maritime Counsel dated May 12th, 2010 RE: OC-I0-BPC-038: Consent to Employ Counsel Other Than the Attorney General To Provide Advice on Matters Relating to Maritime Law

President Miller stated that he was disappointed in the decision by the Attorney General’s office not to grant the waiver that would permit the Board to renew its contract with maritime counsel. He expressed the Board’s appreciation to Maritime Counsel Paetzold and Alternate Maritime Counsel Gleason for their many years of service and counsel to the Board. He noted that they will be greatly missed. Several other Commissioners spoke to their disappointment in the decision as well.

- On May 19 President Miller sent a letter to Secretary Bonner regarding the six-month status report on the implementations of the recommendations contained within the Bureau of State Audits’ report on the board.

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

In the month of April the Commission renewed seven licenses: Captains Pate, Aune, Melvin, Pinder, Kirk, Lemke, and Livingstone. Thus far in May the Commission renewed eight licenses: Captains Fuller, Gabe, Horton, Weiss, Wells, Sweeney, Slough, and Chapman.

- ##### C) Report of surcharges received by the Board: hearings. Executive Director Garfinkle reported that he was unable to address this agenda item at the time but will do so at the June meeting.

D) Report of Budget subcommittee hearings and contractual matters:

Executive Director Garfinkle reported that at the Budget Subcommittee meeting on May 12 in Sacramento the board was successful in having both Spring Finance Letters regarding additional funding for Cosco Busan litigation and Port Revel Training pass.

5. Port Agent's Report – San Francisco Bar Pilot (SFBP) Port Agent Captain Peter McIsaac

A) Monthly report on SFBP ship piloting business activity:

Captain McIsaac reported that the SFBP has selected a new Business Director to replace the retirement of Kenny Levin. Mr. John Cinderey joined the SFBP on May 26 after a twenty year career with Bank of America. President Miller welcomed him to the meeting.

Pilot Vessel Drake was out of service for eight days after striking what was first thought to be a submerged object. After reviewing the AIS capture it was determined that the vessel struck bottom. Both wheels and one tail shaft had to be repaired.

Billed Vessel Moves in April '10 compared to a 3 year average

Bar X's: (541) -13%
Bay Moves: (98) -35%
River Moves: (28) -21%
Total Moves: (667) -17%
GRT: (24.6M) -12%

When compared to the first 4 months of 2009 bar crossings were down 9% while total moves were down 12%.

In the past the Board has asked the Port Agent to report on any Low Sulfur Fuel Oil Issues that may have occurred, at the meeting the Port Agent reported that there were no reports

B) Monthly report on pilot availability and absences

The Port Agent reported that there were ten minimum rest period exceptions during the month of March on three separate days. The shortest was nine hours.

There were eighteen exceptions during April on four separate days. The shortest rest period was eight and three-tenths of an hour although the average rest period was in excess of ten hours.

C) Monthly confidential written report of Absent for Medical Reason's (AFMR) to the Board:

- Capt Simenstad has been AFMR since Feb 27th.
- Capt Gates has been AFMR since April 11th.
- Capt. McIsaac was AFMR beginning March 16th. On May 4th he was found Not Fit For Duty as per board physician.

6) Reported Safety Standard Violations and Investigations - Executive Director Garfinkle

No new reports have been received.

7) Reportable Piloting Events - Executive Director Garfinkle

The report on the allision of the R/V FROSTI with pier 27 will be presented at the next regularly scheduled board meeting. No new reports have been received since that event.

8) Incident Review Committee Report – Vice President Johnston and Executive Director Garfinkle

No new reports have been received.

9) Rules and Regulations Committee - Commissioner Wainwright

- A) The Committee met on May 19, 2010 and a quorum was present.
- B) The regulations on Portable Pilot Units and Investigator Minimum Standards have been submitted to the Office of Administrative law and are in the forty-five days public comment period.
- C) The Committee met and reviewed changes to the Boards Conflict of Interest Code. After discussion the Committee recommends to the full Board for staff to move forward with the formal rulemaking process to add the Assistant Director position to the Board's Conflict of Interest Code and to submit it to the Fair Political Practices Commission. A motion was made and seconded and the motion was passed unanimously by a voice vote.
- D) Proposal to amend Board Regulations section 217 (with respect to medical examinations for pilots) to conform with Harbors and Navigation Code section 1176 which requires that pilots and inland pilots undergo physical examinations in conjunction with the renewal of their licenses.

The Committee discussed that portions of the Board Regulations are redundant and/or are not confirming with State Law. In an effort to bring the regulations into conformity with statute the Committee recommended that he Board directs staff to develop language to conform with Harbors and Navigation Code 1176. A motion was made and seconded and the motion was passed unanimously by a voice vote.

10) Finance Committee –Commissioner Osen

- A) The Committee met on May 20, 2010 with a quorum present. Terri Anderson from the California Highway Patrol (CHP) and Karin Fish of Business Transportation and

Housing (BT&H) attended the Committee meeting and presented fund projections as well as expenditure summaries for the Board. After hearing an analysis of the BOPC budget, the committee reviewed the projected shortfall in the Operations Surcharge of roughly \$32,000. Ms. Anderson felt comfortable that the Board will be able to close this negative balance with some appropriate shifting of costs to the training and continuing education funds leaving the Operation budget very tight. Staff was asked to be careful with any purchases for the remained for the fiscal year which ends June 30, 2010.

After discussion of the current fund status the committee discussed the pending State budget. It was noted to the committee that if there is not a state budget in place at the beginning of the new fiscal year all new spending authority will be placed on hold.

The committee made and approved the motion to not adjust any surcharges at this time.

B) Status of the surcharge audit contract:

President Miller stated that he had reached agreement with the SFBP's independent auditors, Shea Labaugh Dobberstein, with respect to the scope of work for which the Board wishes to contract, as well as with respect to the type of report the auditors would issue. It is important to note that the auditors will be performing "agreed upon procedures" and will report their findings to the Board. They will not be rendering an opinion and thus the engagement will not technically be an "audit." The Board will have the opportunity to review their findings and take such action as it finds appropriate.

President Miller then stated that it had been the intention of the Board and BTH to proceed on a non-competitive bid basis. However, the CHP has raised concerns with proceeding on that basis and it appears that doing so would delay the work substantially, and the non-competitive bid waiver might not be granted at all. Accordingly, President Miller has begun a process of rewriting the scope of work to make it appropriate for the competitive bidding process

C) Review of Pilot Boat, Navigation Technology and Trainee Training surcharges and adjust of necessary:

Ms. Yasuda reported that she would recommend making an adjustment to the Pilot Vessel surcharge as the reserve is running short. The Committee asked Ms. Yasuda to come to the next finance meeting with a presentation on this issue and the committee will decide at that time what an appropriate recommendation to the full Board would be.

11) Pilot Evaluation Committee – Captain Nyborg

A) Report on May 19, 2010 committee meeting.

The Pilot Evaluation Committee met on May 19, 2010.

In closed session, all 6 trainees were interviewed individually. The current trainees include: Tylawski, Ruff, Merritt, Fawcett, Peery, Kellerman. Their time in the program ranges from 11 months to 34 months. All trainees are progressing at their own rate. There may be a recommendation for one certificate of completion at the June Board meeting.

B) Discussion on the Trainee Exam Progress and Timeline:

The written portion of the exam is complete and published.

California Maritime Academy (CMA) reported a computer virus which has disabled the simulator. Repair work was reported to be underway and expected to be complete after the 1st week in June. Comira attended 4 runs of the simulator and gave positive reports on the work to date. Some further adjustments and practice is required but will be complete by mid June.

On the status of the Trainee Drug Testing Program, captain Nyborg reported that the program is active and working well, but needs to transfer over to the custodianship of the Board.

Captain Nybor reported that the final trainee from the last exam is scheduled for initiation on May 31st. He will begin the training program June 1st. His name is Kris Laakso, he will be introduced at the next Board meeting.

D) Possible recommendation for the appointment of a new pilot or pilots

Captain Nyborg introduced Captain Greg Tylawsky:

Captain Gregory M. Tylawsky is a 1984 graduate of Texas A&M University.

He moved to San Francisco in 1984 and began shipping out aboard freighters, tankers, car carriers and container ships, holding a permanent position as Chief Officer from 1995 through 1999 with Sea-Land Service. He was promoted to Master in 1999 trading through Pacific, Atlantic, Mediterranean and Indian Ocean ports. Between assignments, Greg was routinely dispatched by his company to post-incident and vessel casualties where he represented the company's interests. His service includes war-zone command in the Middle East. Coincident with his seagoing career, he served for several years as the National Positions Chair of the Council of American Master Mariners.

In 1990, Captain Tylawsky earned an MBA from The University of Southern California with concentrations in Management and Finance. He is a recipient of two Merchant Marine Expeditionary Medals and is a veteran of the US Navy Merchant Marine Reserve. In 2007, he left his career with Maersk Lines to begin his training with the San Francisco Bar Pilots.

Captain Tylawsky, and his wife Dr. Sally Tylawski, reside in San Francisco with their twelve-year old son, Sherman.

To date, Capt. Tylawski has a total of 758 training jobs with the Bar Pilots. 221 jobs were as observer, 537 jobs were handled, directing the navigation and control of the vessel under the direct supervision of a pilot or inland pilot.

Capt. Tylawski has worked extensively with the PEC, acquiring 118 PEC rides, 18 of which were in the last 90 days. As required by regulation, Capt. Tylawski maintained an average score over 4.0 in each of the last 3 months with PEC members, resulting in a 3-month average score of 4.4.

The PEC met on May 19 at which time it completed a final assessment of whether trainee Captain Greg Tylawski has successfully completed all elements of Section 214 of the training requirements in the Board's regulations. The committee has agreed on its conclusion and has authorized me to present this recommendation to you today.

The Committee used detailed trip reports and personal observation to ensure Captain Tylawski demonstrated a working knowledge of the fundamentals of ship handling in each of the circumstances listed in subsection 214(h) of the regulation, and has demonstrated the skills and knowledge necessary to become a Board licensed pilot. It is the determination of the Pilot Evaluation Committee that Capt. Tylawski has successfully completed the Pilot Trainee Training Program.

On behalf of the Pilot Evaluation Committee, it is my great pleasure to recommend that the Board issue to Captain Gregory Tylawski a Certificate of Successful Completion of the Board's Pilot Trainee Training Program effective today, May 27, 2010.

Executive Director Garfinkle confirms that Captain Tylawski's has met all requirements of the board to receive a certificate of successful completion of the Pilot Training Program.

Commissioner Roberts moved to accept the PEC's report and recommendation and to issue Certificate of Completion effective May 27, 2010, Commissioner Wainwright seconded the motion and it was passed on a unanimous voice vote.

Executive Director Garfinkle states that he has reviewed Captain Tylawski's application for licensure of the Board and that is complete and meets all requirements of the board.

Commissioner Roberts moves to issue a license for Pilotage to Captain Greg Tylawski, Commissioner Wainwright seconds the motion and it is voted for unanimously on a voice vote. Captain Tylawski thanked the PEC and the board for the recognition of licensure and President Miller performed the official Oath of Office.

12) Pilot Fitness Committee - Commissioner Roberts

No new reports have been received.

13) Pilot Pension Committee – Commissioner Tate

President Miller addressed several aspects of the administration of the San Francisco Pilot Pension Plan. He noted that Harbors and Navigation Code section 1162(a) directs the Board to appoint one or more fiduciaries. He stated that it is appropriate to appoint or reappoint the several fiduciaries who have responsibilities for the Plan’s administration.

Executive Director Garfinkle has overall responsibility for administration of the Plan and as such is the principal Fiduciary. Assistant Director Bennett will assume that responsibility in his absence or at his direction and as such is his deputy.

Julie Yasuda, who is comptroller of the San Francisco Bar Pilots Association, oversees the collection of receipts from the pension surcharge and the disbursement of those surcharges to beneficiaries and to pay the expenses of administration of the Plan. The pension surcharge mill rate, target amounts and actual amounts to be paid to beneficiaries are determined by the Ghirardo CPA firm and approved by the Board’s Executive Director in his capacity as Plan Fiduciary. Martin Hromalik, CPA has principal responsibility within the Ghirardo firm for the calculations. The Board through the Plan Fiduciary has a contract with the Ghirardo firm. The expense of that contract is an administrative expense of the Plan and paid from pension surcharge collections. There is a charge of \$960 per quarter from SFBP for Julie Yasuda’s oversight of Plan receipts and disbursements.

Commissioner Tate moved that the Board pursuant to Harbors and Navigation Code section 1162(a) confirm the following persons as fiduciaries of the San Francisco Pilot Pension Plan:

Fiduciary	Allen Garfinkle
Fiduciary (deputy)	Nancy Bennett
Fiduciary (receipts and disbursements)	Julie Yasuda (of SFBP)
Fiduciary (calculations)	Martin Hromalik (of Ghirardo CPA)

The motion was seconded by Vice President Johnston. After discussion by the Board, President Miller inquired if there were comments from the public. There were none. The motion passed unanimously on a voice vote.

14) Low Sulfur Fuel – Commissioner Osen

Commissioner Osen asked Mike Jacob from PMSA to inform the Board of on going litigation. Mr. Jacob stated that the litigation regarding the CARB low sulfur fuel rules (PMSA v. Goldstene) is awaiting judges to be empanelled at the 9th Circuit Court of Appeals who will hopefully hear the case in early autumn.

15) Discussion of Pending Legislation – President Miller

President Miller reported that AB 1888 as amended was passed by the Assembly on May 6, 2010 by a vote of 74-0. He called upon Port Agent McIsaac and PMSA Vice President Jacob to share additional information about the bill. Both acknowledged that they had conferred concerning provisions of the bill and that further amendment in the Senate was likely.

President Miller stated that the Board's proposed amendment to stagger the terms of the industry and pilot members has been drafted to the satisfaction of all parties and may be added to the bill during Senate consideration. A copy of the proposed amendment was distributed to the Board and members of the public.

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16) Executive Director Performance Appraisal – Commissioner Tate

Under the Open Meeting Act, Government Code Section 11126(e)(1) the board went into closed session to discuss at 11:30 am.

17) Public Comment on Matters not on the Agenda

There were none.

18) Proposals for Additions to Next Month's Agenda

Vice President Johnston asked if SFBP Captain Miller could address the board regarding the challenges of piloting a ship in a river. President Miller asked staff to agendaize for the June meeting.

19) Adjournment

There was a motion and second to adjourn. The motion was passed by unanimous voice vote and the meeting was adjourned at 12:10 p.m.

Respectfully Submitted,



for Nancy Hall Bennett
Assistant Director