

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

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**Board of Pilot Commissioners  
Monthly Board Meeting  
June 23, 2011  
9:30 a.m.  
MINUTES**

**OPEN MEETING****1) Call to Order and Roll Call –Vice-President Johnston**

Vice-President Johnston called the meeting to order at 9:34 a.m. Commissioners Wainwright, Roberts and Osen were present, constituting a quorum. President Miller and Commissioner Cronin were not present. Executive Director Garfinkle, Supervising Deputy Attorney General Chris Tiedemann (for Dennis Eagan), Acting Port Agent Peter McIsaac, Staff Services Analyst Brian Vu, and Office Technician Kelly Dolcini also were present.

**2) Approval of Minutes****A) Approval of the May 26, 2011 Board meeting minutes.**

Vice-President Johnston requested approval of the minutes of the May 26, 2011 Board meeting. Commissioner Roberts moved approval. Commissioner Wainwright seconded the motion, which passed unanimously on a voice vote.

**3) Announcements – Vice-President Johnston**

There were none.

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

There were none.

**5) Executive Director's Report – Executive Director Garfinkle****A) Correspondence and activities since the May 26, 2011 meeting.**

Executive Director Garfinkle reported that on June 7, 2011, the UCSG responded to his Freedom of Information request in regards to the ADRIATIC PEARL.

Executive Director Garfinkle reported that on June 10, 2011, he received a copy of an advisory notice PMSA Vice-President Michael Jacob sent to all PMSA members. It advised them that the pilotage rates recommended by the Board are not currently in effect, and informed them of the legislative process the rate adjustment must go through in order for it to become law.

Executive Director Garfinkle reported that Capt. Jeff Cowan, who was not present in the audience, provided a Loss of Propulsion report. There were 10 loss of propulsion incidents in May with three linked to fuel switching. There were seven incidents alone thus far in the month of June.

Executive Director Garfinkle also reported that on June 15, 2011, San Francisco Bar Pilot (SFBP) Capt. Hoburg suffered minor injuries resulting from a fall off the pilot ladder while disembarking a vessel. There would be a more detailed report from the Port Agent.

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

The Commission issued licenses in May to Captains Cloes, Tylawsky, and Kenyon.

The Commission issued licenses in June to Captains Hurt, Haggerty, and Wehr.

C) Report on surcharges received by the Board.

Executive Director Garfinkle reported that the Board collected May surcharges totaling \$354,970.93 broken down as follows: Board operations surcharge \$223,471.93, pilot continuing education surcharges of 80,745.00, and trainee training surcharges of \$50,754.00

D) Report on legislative activities and contractual matters.

AB 656 - Executive Director Garfinkle reported that the Huber bill went to the Senate Governmental Committee where it was passed. It was the subject of an unofficial floor vote which passed 76-0. Next action is in Senate Governmental Organization.

AB 907 – The bill was voted on June 26, 2011 through the Senate Governmental Committee where it did not pass. The next hearing will be June 28, 2011.

AB 1025 – The bill was to be heard in Committee, however this was cancelled at request of the author. The next hearing will be June 28, 2011.

Staff Services Analyst Brian Vu reported on the following contracts:

San Francisco Bar Pilots (SFBP) contract – the non-competitive bid (NCB) and issue memo has been forwarded to BT&H by the California Highway Patrol (CHP) Contract Services Unit for further review and approval.

Manned model training – The bidding concluded with Port Revel being the sole bidder able to meet the specifications. The contract has been sent to Arthur de Graaw of Port Revel where it has been signed and is in transit. Staff has drafted a justification letter to the Department of General Services (DGS). As per the advice of the Board's contract liaison, staff will be preparing non-competitive bid paperwork in the event that DGS does not accept the justification letter, as a precautionary measure.

Investigator services contract –Previously, there was an issue concerning whether to require the Board investigators to carry liability insurance. That requirement has since been dropped. Five agreements have been sent out and staff is expecting four back. One investigator has dropped out due to personal reasons.

**6) Port Agent's Report - Capt. Pete McIsaac for Capt. Bruce Horton**

A) Monthly confidential written report on pilots absent for medical reasons (AFMR) presented to Board. **Board may go into Closed Session to discuss contents of the Port Agent's confidential report as authorized by the Harbors and Navigation Code, Section 1157.1.**

Captain David McBride was found NFFD on October 15, 2010 by a BOPC designated physician.

Captain Morgan Hoburg suffered injured from a fall off the pilot ladder on June 14 while disembarking a vessel. He was found NFFD on June 22 by a BOPC designated physician.

B) Recommended Minimum Rest Period Exceptions:

There were 20 in the month of May.

C) Monthly report on SFBP ship piloting business activity.

Billed moves in May 2011 compared to the three-year average were as follows: Bar crossings up 3.2% (622), bay moves down 16.9% (95), river moves up 30.7% (39), total moves up .8% (756) and gross registered tons (GRT) up 6.7% (29.7M). When compared to May 2010, bar crossings are up 11.1%, total moves are up 11.5% and GRT up 15.5%.

The P/V GOLDEN GATE was out for one day after striking a submerged object. The boat was hauled and a prop needed to be changed.

The P/V SAN FRANCISCO was down for three days due to a turbo leak and control issues. Those items were repaired and the boat is back in service.

The P/V DRAKE is current down for two days due to a planned maintenance covered by the service contract.

Annual dry-dockings begin on July 5, 2011 with the P/V SAN FRANCISCO.

All Commissioners were provided with copies of the Port Agent's confidential written report of pilots who have been absent for medical reasons. After the Board had had the opportunity to read the report, President Miller inquired whether any member wished to go into closed session to discuss the contents of the confidential report. There were no requests.

**The Board will take up Agenda Item 7 last.**

**The Board then took up Agenda Item 8.**

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

There were no safety standard violations reported since the last meeting.

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

Executive Director Garfinkle reported that on May 8, 2011, an incident took place involving the ADRIATIC PEARL wherein the ship lost propulsion while down bound on the Sacramento River, anchored, and made unintended contact with the river bank. The investigation is still in progress.

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

Commissioner Wainwright reported that the Rules and Regulations Committee meet on June 8, 2011 at 1:00 p.m. The key agenda item discussed was 1190(a)(1)(C) "catastrophic cost increase" language. The Committee worked with questions developed by staff and answered three of them.

- Base years should be an average of five years;
- Five years should apply both to 2% of annual cost and 50% greater than average annual cost test;
- Agree that rate change instituted by Board would not run a limitless course. There would be a quarterly review with appropriate language drafted by staff.

Commissioner Wainwright updated the Board on the status of regulations:

- Port Agent Duties – complete. Will bring it up in more detail in Agenda Item 17.
- HNC Sec. 210 –Unsure of status.

**11) Finance Committee - Commissioner Wainwright for Commissioner Cronin**

**A) Report on June 15, 2011 Finance Committee meeting.**

Commissioner Wainwright reported that the Finance Committee met on June 15, 2011. All agenda items were discussed.

B) B) Review of number of licensed pilots anticipated on July 1, 2011 and possible adjustment of pilotage rates for the third quarter of 2011. [Note that while retirements prior to July 1, 2011 are known, the number of new pilots who might be licensed on or prior to that date is not known. The recommendation to the Board may need to reflect several different possibilities, allowing the Board to authorize that which reflects the anticipated number of licensees as of the date of possible Board action.] Possible Board Action

Commissioner Wainwright reported that there was no anticipation that the number of pilots would increase, therefore, no Board action was required.

Executive Director Garfinkle recommended that the Board make a motion on this item.

Commissioner Wainwright moved that the Board make no adjustment to the pilotage rates for the third quarter due to there being less than 58 pilots. Commissioner Roberts seconded the motion. Vice-President Johnston called for discussion by Board members and comment by the public. There were none. Whereupon the motion was passed on a unanimous voice vote.

C) Review of Finance Committee evaluation of Pilot Evaluation Committee (PEC) proposal to require fees for application and/or sitting for the pilot training exam.

Commissioner Wainwright reported that the Committee reviewed a document describing examination fees for various pilotage groups as well as other California licensing agencies. The Committee felt that the best course of action was to pass the information to the PEC for further review.

D) Discussion of Board operations fund condition and Committee's recommendation to lower the operations surcharge to 2.4% effective July 1, 2011. Possible recommendation to lower the Operations surcharge to 2.4%

Executive Director Garfinkle stated that the Department of Finance has accepted the initial request of lowering the Board operations surcharge to 3%. He also recommended that the Board to not approve a reduction to 2.4%.

Commissioner Wainwright stated that because the whole Finance Committee was not present to voice their opinions, he felt that it was necessary to call for a vote on the Committee's recommendation of 2.4%. However, he would not vote in favor. As a result, Commissioner Wainwright moved that the Board accept the Committee's recommendation to lower the operations surcharge to 2.4% effective July 1, 2011. Commissioner Roberts seconded the motion, which did not pass on a voice vote of 0 yeas and four nays.

Executive Director Garfinkle thanked the Board and will monitor the progress to see how fast 3% will lower the Board Operation's surplus.

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

There was no report

#### **13) Low Sulfur Fuel – Commissioner Osen**

There was no report.

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

There was no report.

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

There was no report.

Commissioner Roberts updated the Board that a group was finalizing their week of manned model training at Port Revel. In addition, Capt. Hoburg was scheduled to go until his untimely accident. As a result, Capt. Burger went in his place. Due to purchasing the most economical fully refundable fare, the SFBP was able to get a full refund on Capt. Hoburg's ticket.

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

There was no report.

Commissioner Roberts asked staff to prepare a retirement survey to send out shortly after July 1, 2011. He also requested SFBP to compile 237(d) data.

#### **17) Proposed Regulation for Adoption – Commissioner Wainwright**

Presentation of amended regulations concerning Port Agents Duties in Section 218 with the addition of the "hand holding" vessel length increases. Request for final adoption of amendments after the completion of public comment period. **Possible Board Action for final adoption of amended regulation.**

Commissioner Wainwright moved that the Board formally adopt Sec. 218. Commissioner Roberts seconded the motion. Vice-President Johnston called for discussion by Board members and comment by the public. There were none. Whereupon the motion was agreed to on a unanimous voice vote.

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

There was no report.

#### **19) Incident Review Committee – Vice-President Johnston and Executive Director Garfinkle**

Vice-President Johnston recommended that the Board defer agenda item 19, stating that as a member of the IRC, he must reclude himself. In doing so, there would be no quorum.

Executive Director Garfinkle recommended that the Board vote for an extension to the next meeting.

Commissioner Roberts moved that the Board grant an extension to the IRC until the next Board meeting. Commissioner Wainwright seconded the motion. Vice-President Johnston called for discussion by Board members and comment by the public. There were none. Whereupon the motion was agreed to on a unanimous voice vote.

## **20) Public Comment on Matters not on the Agenda**

Acting Port Agent McIsaac noted that retired SFBP pilot boat Capt. Robert Alexander Porteous passed away. He joined the SFBP as captain of the pilot boat in 1947 and retired in 1997. Capt. Porteous was a prominent figure who acted as a mentor to many of the senior pilots, responsible for setting up a number of pilot boat procedures that are still in place to this day. He was a friend to all and a great seaman. A memorial service will be at his family home.

Commissioner Roberts inquired as to whether the Board can do anything to recognize service.

Vice-President Johnston supported that notion, also stating his desire to recognize achievement in the line of work.

Board staff will investigate and report back.

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

Commissioner Roberts stated that he would be absent at the next Board meeting.

**At 10:18 A.M. Vice-President Johnston announced that the Board would stand in recess until 10:30 A.M.**

**At 10:32 A.M. the Board reconvened.** Vice-President Johnston noted that by observation, all Commissioners had returned and that a quorum was present.

Vice-President Johnston stated that he wanted to acknowledge Capt. "Rusty" McBride who was retiring after 23 years and wished him "fair winds and following seas".

**Vice-President Johnston then returned to agenda item 7.**

## **7) Pilot Evaluation Committee – Capt. Einar Nyborg**

A) Report on June 15, 2011 meeting.

The Pilot Evaluation Committee met on June 15, 2011. In closed session, all six trainees were interviewed individually. The current trainees include: Fawcett, Laakso, Carr, Johnson, Manes, and Stoltz. Their time in the program ranges from six to 26 months. All trainees are progressing well at this time.

B) Possible Recommendation for a determination that a trainee has or trainees have completed the pilot trainee training program; Possible Board Action. Possible Executive Director Recommendation for the appointment of a new pilot or pilots; Possible Board Action.

Captain Nyborg introduced Captain Erik Fawcett, and proceeded to detail the Pilot Evaluation Committee's recommendation that Capt. Fawcett be issued a Certificate of Completion of the Board training program.

Capt. Fawcett entered the Training Program in April 2009. To date, Capt. Fawcett has a total of 764 training jobs with the San Francisco Bar Pilots. 261 jobs were as observer and 503 jobs were handles, with the trainee directing the navigation and control of the vessel under the direct supervision of a SFBP pilot.

Capt. Fawcett has worked extensively with the PEC, acquiring 190 PEC rides, 38 of which were in the last 90 days. As a requirement of the Certificate of Completion, Capt. Fawcett maintained an average score over 4.0 in each of the last three months with PEC members, resulting in a three-month average score of 4.12.

The Committee used detailed trip reports and personal observation to ensure Capt. Fawcett demonstrated a working knowledge of the fundamentals of ship handling in each of the categories listed in subsection 214 (c) and (h) of Title 7, Harbors and Navigation, and has demonstrated the skills and knowledge necessary to become a Board licensed pilot.

Capt. Nyborg reported to the Board that at the June 15, 2011 meeting, the Committee completed a final assessment of whether trainee Fawcett had successfully completed all elements of Section 214(h) in the Board regulations. The Committee unanimously agreed that he has and has authorized recommending Capt. Fawcett for a Certificate of Completion.

At the conclusion of Capt. Nyborg's report and upon receiving the PEC recommendation, Vice-President Johnson inquired of Executive Director Garfinkle whether he had verified that Trainee Fawcett had met the requirements for being issued a Certificate of Completion.

The Executive Director responded that he had verified that Trainee Fawcett had completed all requirements specified in Board regulation 214, that he had been in the training program more than one but not more than three years as required by Harbors and Navigation Code section 1171.5(c) and that he had maintained average scores from PEC members on trips handled of 4.0 or better on a scale of 5.0 during each of the last three months. He stated that that it was his opinion that the Board should grant a Certificate of Completion of the Trainee Training Program to Trainee Fawcett.

Commissioner Wainwright moved that the Board grant a Certificate of Completion to trainee Fawcett. Commissioner Roberts seconded the motion. Vice-President Johnston called for discussion. There was none. Vice-President Johnston called for the yeas and nays. The motion carried on a roll call vote: 4 yeas, 0 nays.

Vice-President Johnston inquired of Executive Director Garfinkle whether he had received an application for licensing from Capt. Fawcett. The Executive Director stated that he had, that there currently are vacancies with respect to the number of authorized licenses, that Capt. Fawcett had completed the Board's trainee training program, that the Board had received a fit for duty determination for Capt. Fawcett from a Board designated physician, that Capt. Fawcett held United



States Coast Guard master's licenses for vessels of 1600 tons or larger, with radar observer's endorsement, and that Capt. Fawcett held United States Coast Guard endorsements for all pilotage grounds in San Francisco Bay and its tributaries. The Executive Director stated that in his opinion Capt. Fawcett was eligible to be licensed as San Francisco Bar Pilots.

Commissioner Wainwright moved that the Board grant an initial license as a San Francisco Bar Pilot to Capt. Fawcett. Commissioner Roberts seconded the motion. Vice-President Johnston called for discussion. There was none. Vice-President Johnston called for the yeas and nays. The motion carried on a roll call vote: 4 yeas, 0 nays.

## **22) Adjournment**

There being no further business before the Board, the meeting adjourned at 10:52 p.m.