

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

660 Davis Street, San Francisco, CA 94111
Phone: (415) 397-2253 Fax: (415) 397-9463
www.bopc.ca.gov

**RULES AND REGULATIONS COMMITTEE MINUTES
May 26, 2015 at 12:00 p.m.
and continued on May 28, 2015 at 8:30 a.m.****Committee Members Present**

Capt. Joe Long, Chairman
John Schneider

Committee Members Absent

Vice President John Connolly

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

Ray Paetzold, San Francisco Bar Pilots' (SFBP) Board Counsel, and Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President/Board Counsel.

1. Call to Order and Roll Call.

Chairman Long called the open meeting to order at 12:00 p.m.

2. Approval of Rules and Regulations Committee meeting minutes of February 4, 2015.

MOTION: Mr. Schneider moved to approve the minutes of the February 4, 2015, meeting. Chairman Long seconded the motion.

VOTE: Yes: Long, Schneider
No: None
Abstain: None

ACTION: The motion was approved.

3. Review and approve draft of 7 CCR §222, Pilot Conflict of Interest Code amendment to specifically include the Port Agent and to mandate that the Port Agent file statements of

economic interest with the Fair Political Practices Commission or the Board. Possible recommendation to Board to approve and to direct staff to begin the formal rulemaking process.

Chairman Long stated that he was glad the Committee was considering the opportunity to provide additional transparency as it pertains to the Port Agent. Executive Director Garfinkle gave a brief introduction to the proposed § 222 (f) draft regulation. Board Counsel Eagan provided a detailed discussion of the draft regulation. Board Counsel Eagan further highlighted two main concerns of the proposed draft regulation—where the proposed Port Agent Statement of Economic Interests should be filed, and that § 18730 contains regulations that apply specifically to the Fair Political Practices Commission (FPPC). In regards to the first concern, Board Counsel Eagan indicated that since the Port Agent is not an officer, employee or consultant of the Board, he believed the more appropriate filing location for a Port Agent Statement of Economic Interests would be with the Board. In regard to the latter concern, he indicated that to simplify the reporting format, he believed it would be appropriate to keep the substance of the FPPC’s reporting requirements.

There was a general discussion about the reportable items, and it was clarified by Board Counsel Eagan that the reportable items in the draft proposed regulation are related directly to the Port Agent’s duties, and specifically do not include the reporting of real estate ownership.

Chairman Long called for comments from the public. Mr. Jacob conveyed to the Committee several issues, including: the Committee’s rulemaking process appears to be rushed; the fact that this issue is currently subject to litigation; requiring Port Agent disclosure is to ensure that he avoid conflicts; there is currently no reporting for pilots; and, has the Board considered possible enforcement. He concluded that he was fine with the thorough analysis, but the entire process seems rushed and not consistent with past Board rulemaking practices and procedures.

Upon further discussion, the Committee agreed not to utilize the FPPC’s Form 700, but to develop a Port Agent Statement of Economic Interests Cover Sheet, and, for convenience, to utilize the Form 700’s schedules. Chairman Long conveyed to Mr. Jacob that the Committee’s consideration of this item is only the first step in the rulemaking process, and that there will be ample opportunity for public input once the formal rulemaking process is commenced. Board Counsel Eagan agreed with Chairman Long, and further explained that the Board intends to follow the Administrative Procedures Act to amend the Board’s regulations.

BEGAN RECESS: 11:45 P.M.
END RECESS/RESUMED MEETING: 1:05 P.M.

Chairman Long indicated that he would like to continue the discussion of this agenda item to allow staff time to create a draft of a reporting cover sheet form for Committee consideration, and the Committee discussed a meeting continuation date and time.

MOTION: Mr. Schneider moved to continue the meeting to Thursday, May 28, 2015, at 8:30 a.m.
VOTE: Yes: Long, Schneider
No: None
Abstain: None
ACTION: The motion was approved.

BEGAN RECESS: 1:26 P.M., MAY 26, 2015
END RECESS/RESUMED MEETING: 8:30 A.M., MAY 28, 2015

Chairman Long called roll call, and noted that Vice President Connolly was now in attendance. He noted that, with the exception of Mr. Paetzold, who was absent, the remainder of the attendees at this meeting were the same as those on May 26, 2015.

Chairman Long continued the discussion of Agenda item 3. Board staff presented revised proposed draft language of § 222(f) (*revised as of May 27, 2015*), with most of the changes from the May 26, 2015, meeting draft version being clerical edits. Staff also presented a proposed draft Port Agent Statement of Economic Interests disclosure form cover sheet for the Committee to review.

Mr. Jacob handed the Committee a letter dated May 28, 2015, that detailed several concerns about this agenda item. He again conveyed to the Committee concerns with how quickly the proposed regulations were drafted. He stated that he appreciated the Board's efforts to write the regulations, but believes that the swiftness with which they were drafted reinforces the idea that they are litigation driven. He reiterated his concerns about enforcement and that pilots do not have any reporting requirements. He also stated that he is glad to see the Board moving forward on this issue, but does have many concerns. Chairman Long conveyed to Mr. Jacob that there will be other opportunity for public comment when the formal rulemaking process is conducted.

Board Counsel Eagan stated that some of Mr. Jacob's comments pertain to policy issues that the Board may wish to consider. He stated that there are some public disclosure requirements in which only disclosure is required with no limitations on certain reportable activities, such as contributions to candidates for public office, and that there are a variety of approaches to political disclosure. He apprised the Committee that Mr. Jacob's concerns and other disclosure issues can be further considered once the Board commences the formal rulemaking process, and that at this point in time, the Committee should be recommending to the Board to direct staff to proceed with the rulemaking process if they are so inclined.

Executive Director Garfinkle apprised the Committee that it appears the meeting agenda for the May 28, 2015, Board meeting may be a source of confusion as to the Committee's intent regarding procedural matters for this agenda item. After discussion, it was determined that the Committee would like staff to have the opportunity to consider further edits to the

proposed draft regulation and related form, and that Chairman Long would work with staff to schedule another Committee meeting in the near future to further discuss this agenda item.

3. Public comment on matters not on the agenda.

There were no comments.

4. Proposals for additions to next meeting agenda.

Other than continuing with a further discussion of Agenda item 3, there were no other agenda item proposals. The Committee agreed the next meeting would be held on June 19, 2015, at 10:30 a.m.

5. Adjournment.

The Committee adjourned at 9:15 a.m.

Prepared by: Kelly Dolcini and Roma Cristia-Plant