

Date: June 19, 2015 and continued on June 25, 2015	Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111 RULES AND REGULATIONS COMMITTEE MEETING MINUTES	Page 1 of 4
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Committee Members Present

Commissioner Joe Long, Chairman
 Commissioner John Schneider (present only on June 19, 2015)
 Board Vice President Dave 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 10:48 a.m.

2. Approval of Rules and Regulations Committee meeting minutes of May 26 and continued on 28, 2015.

Committee members discussed several edits to the minutes, principally to clarify the description of the Committee's consensus that lead to the agreement to draft a Port Agent Statement of Economic Interests coversheet, to not use the Form 700, and to use the Form 700 schedules. Assistant Director Cristia-Plant agreed to make the corrections to the minutes.

MOTION: Vice President Connolly moved to approve the minutes of the May 26 2015, meeting that was continued on May 28, 2015, as amended. Commissioner Schneider seconded the motion.

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

ACTION: The motion was approved.

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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 Board. Possible recommendation to Board to approve and to direct staff to begin the formal rulemaking process.

Chairman Long indicated that at the May 28, 2015, Board meeting, the Board determined the agenda was not sufficiently written to commence a Port Agent rulemaking process, and that the Board had decided to postpone a decision to commence the Port Agent conflict of interest code rulemaking process. The Committee elected to meet again to further discuss the proposed regulation. Assistant Director Cristia-Plant briefly reviewed the current draft of the proposed Port Agent Statement of Economic Interests reporting form and schedules updated since the May 26/28, 2015, meeting. She stated the Port Agent Statement of Economic Interests form and schedules, as well as the accompanying form instructions were further modified to make the form proprietary to the Board, but that not all of the schedules were yet complete.

Mr. Jacob presented the Committee with a letter dated June 18, 2015, that stated PMSA appreciates and supports the Board’s efforts to make the Port Agent accountable to the public for his actions and to provide transparency, and expressed a concern that the proposed regulatory amendments lacked any description of the tools that the Board would use to address a conflict of interest situation should one arise as compared to enforcement provisions authorized under the state Political Reform Act. The letter listed various limitations and enforcement provisions found in the Political Reform Act that are not being considered in the proposed regulation. The letter conveyed that promulgating Port Agent conflict of interest regulations for disclosure sake is insufficient without enforcement provisions, and expressed a concern about the timing and swiftness of pre-rulemaking process given the complex nature of the subject matter. The Committee discussed the need to further amend the rulemaking documents to include requiring reporting of community property interests of a spouse or domestic partner, additional footnote references, and references to a Board disclosure form instead of Form 700 schedules.

Mr. Jacob also mentioned a concern about what appears to be an informal rulemaking process for this item that is not consistent with prior Board rulemaking efforts, but thanked the Committee for working on the topic. Chairman Long thanked Mr. Jacob for his letter. He reiterated that he believes the direction to require disclosure and have the Port Agent file a statement of economic interests is a good first step, and that he would like to see what is actually reported before deciding on whether or not enforcement actions are warranted.

Vice President Connolly stated that he would like to do further research on his own on the Political Reform Act disclosure requirements and enforcement actions.

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Chairman Long indicated that he would like to continue the discussion of this agenda item and continue the meeting for a few days to allow staff further refine the draft Port Agent conflict of interest code regulatory language, and complete work on a draft Port Agent Statement of Economic Interest form and schedules, rather than conceptually approve the draft regulation and form.

MOTION: Commissioner Long moved to continue the meeting to Thursday, June 25, 2015 at 8:30 a.m, and to direct staff to complete work on a proposed draft Port Agent conflict of interest code regulatory language and a Board Port Agent Statement of Economic Interests reporting form complete with schedules. Vice President Connolly seconded the motion.

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

ACTION: The motion was approved.

BEGAN RECESS: 11:53 A.M., June 19, 2015

END RECESS/RESUMED MEETING: 9:00 A.M., June 25, 2015

Chairman Long called roll call, and noted that Commissioner Schneider was not in attendance, that the remainder of the Committee, the staff and the public in attendance on June 19, 2015, were in attendance. He indicated that a quorum was present.

Chairman Long continued the discussion of Agenda item 3 and reported the meeting left off discussing conceptual changes to the proposed draft Port Agent conflict of interest code, and that since that meeting staff made changes to both the proposed draft regulation and statement of economic interests reporting form. Board Counsel Eagan described the staff's amendments to the proposed draft regulations since the last meeting, including the addition of income and investments of spouses, the tracking of footnotes in the FPPC regulations, references Board schedules instead of FPPC schedules, and deleted references to the Form 700. Assistant Director Cristia-Plant reviewed a final draft of the Port Agent Statement of Economic Interests form and related schedules. She stated that she did not include all relevant question and answers from the Form 700 in the Board's form. There was a brief discussion and the Committee decided that not all questions and answers on the Form 700 needed to be included in the Board's form.

Mr. Jacob addressed the Committee and stated that his previous comments remain unchanged. Responding to the PMSA letter dated June 19, 2015, Chairman Long stated that he believes the Committee and the Board are endeavoring to be transparent, and that the draft Port Agent disclosure rulemaking documents being considered by the Committee match the responsibility

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of the position, particularly since the Port Agent is not a decision maker and does not vote on Board matters. He again stated that he would like to see what the Port Agent actually discloses before deciding if any enforcement provisions are warranted. Chairman Long also affirmed that the formal rulemaking process will allow the public, including Mr. Jacob, an opportunity to provide input to the Board on proposed regulations.

MOTION: Chairman Long moved to approve and recommend to the Board the draft Port Agent conflict of interest regulation language and accompanying draft Port Agent Statement of Economic Interests form to be included in §222 of the Board’s regulations, and to request the Board to direct staff to begin the formal rulemaking process.

VOTE: Yes: Long, Connolly.

No: None.

Abstain: None.

ACTION: The motion was approved.

3. Public comment on matters not on the agenda.

There were no comments.

4. Proposals for additions to next meeting agenda.

There were no proposals

5. Adjournment.

The Committee adjourned at 9:25 a.m.

Prepared by: Kelly Dolcini and Roma Cristia-Plant