

Minutes Open Session	Monthly Board Meeting	Date: May 23, 2013
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Board members present

RADM. Frank Johnston, President
 Mr. Dave Connolly, Vice President
 RADM. Jack Brooks, Commissioner
 Capt. Steve Roberts, Commissioner
 Capt. Joe Long, Commissioner
 Gabor Morocz, Ex Officio Member, designee of the Secretary of the Business Transportation and Housing Agency

Staff present

Allen Garfinkle, Executive Director
 Dennis Eagan, Board Counsel
 Kelly Dolcini, Staff Services Analyst
 Sigrid Hjelle, Office Technician

Others present

Capt. Pete McIsaac, Port Agent

Public present

Past President Mike Miller, Ray Paetzold, San Francisco Bar Pilot (SFBP) Capt. Einar Nyborg, SFBP business director John Cinderey were among the public present.

1. Call to order and roll call

The meeting was chaired by President Johnston, who called the Board to order at 9:30 a.m.

2. Approval of minutes of the April 25, 2013 Board meeting

Commissioner Connolly rephrased a statement he made for the minutes. The minutes were unanimously approved as corrected on a voice vote.

3. Announcements

President Johnston made a brief statement regarding the tragic circumstances of the death of Andrew “Bart” Simpson and recognized the difficulty and risk involved in the Piloting activities.

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4. Board member activities

Commissioner Long reported that he would be attending manned model training at Port Revel and will not be present at the June Board meeting.

President Johnston announced that he had attended a meeting of the Maritime Commerce Advisory Committee.

5. Executive Director's report

Mr. Garfinkle reported that he had responded to the letter from Pacific Merchant Shipping Association (PMSA) regarding certain objections they have to the Board going into closed session to deliberate on incidents under investigation.

Mr. Garfinkle then reported on notable correspondence received by staff since the February 2013 meeting.

The Board received a check for \$126,026.79 for surcharges collected by the SFBP, which broke down as follows:

Board Operations Surcharge: \$31,256.79

Continuing Education Surcharge: \$72,870.00

Trainee Training Surcharge: \$21,900.00

Between the March and April Board meetings, staff renewed licenses for Capts. Livingstone and Gabe. Since the April meeting, the Board staff has renewed licenses for Capts. Tylawsky, Wehr, Weiss, Sweeney, Hurt and Horton.

Ms. Dolcini gave the report on contractual matters. She described the contracts that Board staff have recently completed and are currently working on. These include contracts with California Maritime Academy and Capt. Dave Gates, as well as an invitation for bids for psychometric services, which will aid in the development and implementation of a trainee program entrance exam in 2014.

She also reported that the Board office had recently acquired a new color copier and that a purchase order had been submitted for new computers for staff.

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6. Port Agent's report

Capt. McIsaac reported that there are currently seven pilots absent for medical reasons (AFMR). He eulogized Capt. Tim Holl, a Bar Pilot who recently passed away after a battle with cancer, and asked that the Board and audience join him in a moment of silence. He reported that there had been 16 minimum rest period (MRP) exceptions since the April meeting, primarily due to the combination of a large number of pilots who were AFMR and others who were attending the Combination Course training.

He also reported on billed vessel moves during the month of April and gave an update on pilot boat maintenance and repairs.

7. Pilot Evaluation Committee

Capt. Nyborg reported that there are currently three trainees in the pilot trainee training program, all of whom are progressing well. He advised the Board that the Pilot Evaluation Committee (PEC) will recommend that one of the trainees be made a pilot in the coming months.

8. Reported safety standard violations

There were no safety standard violations to report.

9. Reportable piloting events

On the matter of the M/V SOPHIE OLDENDORFF December 14, 2012 allision with a mooring dolphin at the Port of Redwood City, Mr. Garfinkle reported on the matter later in the meeting.

On the matter of the M/V TANCREED, which allegedly damaged berth #2 at the Benicia Auto Terminal on January 26, 2013, Mr. Garfinkle requested an extension until the June Board meeting.

MOTION: Commissioner Long moved to approve the extension of the M/V TANCREED report. Commissioner Connolly seconded the motion.

ACTION: The Board unanimously approved the motion on a voice vote.

Mr. Garfinkle reported that there had been an incident on April 23, 2013, wherein the M/V NYK LYNX, moored in Oakland Outer Harbor, experienced interaction with either or both the M/V APL TOKYO and the M/V BEAR MOUNTAIN BRIDGE. That incident is currently under investigation.

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He also reported that, since the April Board Meeting, there has been a report of a possible grounding of the M/V CLAXTON BAY while departing Stockton on May 10, 2013. The event remains under investigation.

10. Pilot Fitness Committee

Past President Miller, who now chairs the Pilot Fitness Committee, reported that the Committee had not met since the last Board meeting. He hopes to schedule a meeting in early June. He went on to stress the importance of conforming the Committee meeting schedule to the needs of the SFBP, with respect to ensuring that there are a sufficient number of pilots to handle the workload, and in particular not to “short the board.”¹ Chairman Miller stated that the Committee agenda would include continuing oversight of the pilot fitness rulemaking process and rulemaking implementation. He said that the Committee would move on to its new assignment – assessing fatigue issues as they affect the Board’s licensees, developing a response to NTSB recommendation M-11-20, and responding to the legislative mandate in the now-enacted and chaptered SB 1408 (2012) which requires the Board to commission a study of pilot fatigue issues and mandates that the Board engage in rulemaking consistent with recommendations in that study. Chairman Miller pointed out that SB 1408 did not provide an appropriation to pay for the study and that once the Committee develops a scope of work for the study, and once that scope of work is agreed to by the Board, the Board necessarily will submit a Budget Change Proposal to request the needed funds. Chairman Miller cautioned that the process likely would be a lengthy one.

11. Ad Hoc Committee on Blue Card Rates

Past President Miller, who now chairs this Ad Hoc Committee, reported that the Committee had not met since the last Board meeting. He hopes to schedule a meeting in June. As was the case with the Pilot Fitness Committee, Chairman Miller stressed the importance of conforming the Committee meeting schedule to the needs of the SFBP with respect to ensuring that there are a sufficient number of pilots to handle the workload, and in particular not to “short the board.” Chairman Miller stated that the Committee would need to bring new Committee members up to date on work that had gone before, and decisions tentatively made by the Ad Hoc Committee. Only a few service codes remain to be defined. Chairman Miller reported that he hopes to have final recommended language to the Board by the end of the summer.

12. Low Sulfur Fuel Report

¹ Shorting the Board refers to a situation where fewer pilots are available for work than would normally be available on any given day.

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There was no report.

13. Report of the Attorney General's Office

Board Counsel Dennis Eagan reported that a date of June 19, 2013 has been set for oral argument in the pending Court of Appeal hearing on Pacific Merchant Shipping Association v. BOPC and Peter McIsaac as Port Agent, Writ of Mandate.

14. Vessel Movement Restrictions

Capt. McIsaac made a presentation to the Board outlining the vessel movement restrictions undertaken by the SFBP. He reported that they produce and maintain a document titled: Operations Guidelines for the Movement of Vessels on San Francisco Bay and Tributaries and described its contents to the Board. Capt. McIsaac reviewed some points that apply to the guidelines:

- The guidelines are intended for planning purposes only. They have been developed to assist agents and vessel owners in planning for vessel movements.
- The guidelines include information such as the following: tug requirements, maximum current restrictions, minimum under keel clearance (UKC), bow thruster ratings, daylight only maneuvers (DLO), etc.
- They also contain specific requirements supplied by terminal operators.
- In other words the guidelines provide specific standards of care to be considered in planning a transit.
- If there are questions the agents are encouraged to, and constantly do, contact the operations pilot.

Note: New guidelines are developed by a core group of pilots and then affirmed by a majority consensus. Established guidelines are amended by consensus as experience dictates

- Typically when a new service is started conservative guidelines are established and the parameters are amended if experience shows they are too rigid: a recent example is the removal of the requirement for a third tug on vessels between 1000' and 1200' sailing outbound from Oakland with no turn.
- Likewise, if the new service guidelines prove to be insufficient the guidelines will be adjusted accordingly. For example, when two tugs were insufficient to turn vessels greater than 1000' in Oakland the standard of care was increased by adding a third tug
- There has been a recent misunderstanding with the Port of Oakland regarding the DLO restrictions in the guidelines. The SFBP will be meeting with them on Friday to discuss.
- Currently the DLO guideline in Oakland Inner Harbor precludes vessels greater than 1000' from turning at night in the basin
- The DLO guideline in Oakland Outer Harbor precludes vessels greater than 1115' from turning at night in the basin.

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- The ARINC Precision Portable Pilot unit mitigates some of the inherent risk of turning a very large container ship in a small basin but daylight still provides a larger margin of safety.
- Customer service is second only to safety. The SFBP will continue to use the 150 plus years of their experience and expertise to help the Port of Oakland further their mutual goals of robust commerce and continued safe operations.”

15. IRC report on the license suspension or revocation action stemming from the M/T OVERSEAS REYMAR report.

Mr. Garfinkle reported that no date for a hearing had been set and that both parties were negotiating on a possible settlement in the case.

16. IRC report on the M/V SOPHIE OLDENDORFF contact with a mooring dolphin in the Port of Redwood City.

A presentation of the IRC incident report on the M/V SOPHIE OLDENDORFF and recommendation to Board. **Board deliberation and decision with respect to possible pilot error. Board determination with respect to further actions if appropriate. The Board may go into closed session for the deliberation of the pilot incident report presented under item 16 above pursuant to Harbors and Navigation Code section 1180.6(a) and Government Code section 11126(c)(3).**

President Johnston relinquished his presiding role over the meeting to Vice President Connolly in order to participate in the proceedings as the chair of the IRC.

Mr. Garfinkle and President Johnston gave the report on the M/V SOPHIE OLDENDORFF. In addition to the IRC report, Mr. Garfinkle submitted two exhibits to the Board for their consideration, including the U.S. Coast Guard Automatic Identification System (AIS) data and footage from a security camera at the Port of Redwood City. Mr. Garfinkle focused his presentation on the evidence that the M/V SOPHIE OLENDORFF was not able to provide astern propulsion beyond 51 revolutions per minute (rpm), even though the Pilot Card showed half astern and full astern at 64 and 80 rpm’s respectively. Although there was evidence that the captain knew about these difficulties, the pilot was not made aware of them. Based on the evidence provided, the IRC recommended that the Board find no pilot error, and that the case be closed with no further action.

Acting-President Connolly called for a statement by the defense either from the pilot or his counsel. Pilot attorney Rex Clack responded that the defense had no statement at this time. Connolly asked if any members wished to go into closed session to deliberate the case. There were no requests.

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MOTION: RADM Brooks moved to accept the IRC recommendation for a finding of no pilot error and close the case with no further action. Commissioner Long seconded the motion.

ACTION: The Board voted unanimously on a voice vote to accept the recommendation of the IRC.

17. Public comment on matters not on the agenda

Capt. McIsaac reported on a longshoreman who was killed on the job in the Port of Oakland. He reiterated President Johnston's earlier statement that the occupational hazards inherent in maritime work should not be underestimated.

18. Proposals for next month's agenda

There were no proposals for next month's agenda.

19. Adjournment

The meeting adjourned at 11:15 a.m.

Allen Garfinkle, Executive Director

Prepared by: Kelly Dolcini