

Minutes Open Session	Joint Pilot Fitness Committee and Rules and Regulations Committee Meeting	Date: September 13,2013
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Committee members present

K. Mike Miller, Chairman, Pilot Fitness Committee
 Capt. Steve Roberts, Chairman, Rules and Regulations Committee
 Capt. Joe Long, Commissioner
 Mr. Dave Connolly, Commissioner
 BG Chet Ward, MD
 University of California Associate Clinical Professor Robert E. Kosnik, MD
 Ben De Alba, Assistant Secretary for Rails and Ports, California State Transportation Agency

Staff present

Allen Garfinkle, Executive Director
 Kelly Dolcini, Staff Services Analyst
 Sigrid Hjelle, Office Technician

Others present

Capt. Pete McIsaac, Port Agent

Public present

SFBP Capt. John Carlier, PMSA Vice President Mike Jacob

1. Call to order and roll call

It was noted that Pilot Fitness Committee member Barbara Price and Rules and Regulations Committee member John Schneider were not present. Dr. Robert Kosnik arrived at approx. 9:55 a.m.

Chairman Miller addressed the Committee members and audience and introduced Ben DeAlba, Assistant Secretary for Rail and Ports, California State Transportation Agency. He explained that Mr. DeAlba's place as a voting member of the Committee is separate from his function of serving as Secretary Kelly's representative as an ex officio member of the Board.

The Committee then moved to consideration of the agenda in regular order.

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2. **Review of comments received since the beginning of public comment period (July 26, 2013) on proposed changes to pilot fitness regulations. Possible recommendation to full Board to amend regulations in response to comments received.**

The Committee discussed Board Counsel Eagan’s memo of September 11, 2013. In it, he detailed the contents of a letter received from Pacific Merchant Shipping Association (PMSA) on September 3, 2013, which identified items in the regulation for which it sought clarification. PMSA is concerned that the term “medical disability leave” could be misconstrued as a determination that the pilot is eligible for a disability pension under section 1164(b) of the Harbors and Navigation Code.

PMSA Vice President, Mike Jacob was in the audience and clarified that PMSA does not seek to revise the regulatory document, but would like their comments reflected in the Final Statement of Reasons.

Mr. Miller commented that one element of the PMSA comment letter misstates the genesis of these fitness regulations. The PMSA letter indicates that the rulemaking effort grew out of legislation (SB 1217 and SB 1627), but Mr. Miller noted that the current rulemaking reflects recommendations and other considerations flowing from a multi-year study by UCSF of pilot fitness determination. The legislature funded this study in response to a Spring Finance Letter for fiscal year 2008/09 that Board staff submitted to the Department of Finance on March 14, 2008, substantially prior to the enactment of either piece of legislation.

General Ward suggested changing the language back to “absent for medical reasons” due to the interpretation “medical disability leave” causing so much confusion.

Mr. Garfinkle suggested that Mr. Jacob’s suggestion of adding clarifying language to the Final Statement of Reasons would bypass an additional comment period, and the regulation could then be forwarded to OAL for approval. Mr. Eagan suggested to Committee members that whichever method they deem appropriate for a response to the comment, it should come in the form of a motion.

MOTION: Chairman Miller moved that PMSA's comment letter of September 3, 2013, be responded to in the Final Statement of Reasons by (1) explaining by reference to the drafting history of the fitness regulations that use of the term "medical disability leave" in section 217.35(a) does not in any way implicate eligibility for a disability pension; (2) including in the Final Statement of Reasons PMSA's letter of October 2, 2012, SFBP's letter of October 26, 2012, and Board Counsel's memorandum of September 11, 2013; and (3) responding to inaccuracies concerning the genesis of the fitness regulations that are contained in the PMSA comment letter. Chairman Roberts seconded the motion.

ACTION: The motion passed unanimously on a voice vote.

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3. Public comment on matters not on the agenda

Capt. Roberts enquired as to the status of the trainee entrance exam requirements. Mr. Garfinkle reported that they are still at Agency.

4. Proposals for next month's agenda

There were none.

5. Adjournment

MOTION: There being no further business to come before the Committee, Mr. Connolly moved to adjourn the meeting. Capt. Roberts seconded the motion.

ACTION: The motion passed unanimously and the Committee adjourned at 10:48 a.m.

Prepared by: Kelly Dolcini