

<p>Meeting Date: April 27, 2017</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 1 of 14</p>
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Board Members Present

Jennifer Ferrera Schmid, President, Public Member
 Dave Connolly, Vice President, Public Member
 David Hoppes, Dry Cargo Industry Member
 Captain George Livingstone, Pilot Member
 Captain Einar Nyborg, Pilot Member
 John Schneider, Wet Cargo Industry Member
 Benjamin DeAlba, Assistant Secretary for Rail and Ports, representing the Secretary of the California Technology Agency

Board Members Absent

Vacant, Public Member

Staff Present

Allen Garfinkle, Executive Director
 Roma Cristia-Plant, Assistant Director
 Dennis Eagan, Board Counsel
 Luis Cruz, Staff Services Analyst
 Sigrid Hjelle, Office Technician

Public Present

Knute Michael Miller, Past Board President; Captain Joseph Long, Port Agent and San Francisco Bar Pilot (SFBP) President; Ray Paetzold, SFBP Business Director-General Counsel

OPEN MEETING

1. Call to Order and Roll Call – President Schmid

President Schmid called the meeting to order at 9:30 a.m. Staff Services Analyst Cruz called the roll and confirmed a quorum.

2. Review and approval of Board meeting minutes – President Schmid

Board action to approve meeting minutes from the Board meeting held on March 21, 2017.

Board members were presented with the minutes of the meeting held March, 21, 2017. Vice President Connolly requested a minor edit to the minutes.

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- MOTION:** Commissioner Schneider moved to approve the minutes of the meeting held on March 21, 2017, as amended. Vice President Connolly seconded the motion.
- VOTE:** YES: Schmid, Connolly, Hoppes, Livingstone, Nyborg and Schneider.
NO: None.
ABSTAIN: None.
- ACTION:** The motion was approved.

3. Announcements – President Schmid
Announcement of events affecting Board business since the last Board meeting.

President Schmid announced that on April 12, 2017, she attended and spoke at the West Coast Pilot Conference, held at the SFBP office located at Pier 9, and discussed advancements within pilot safety and pilot continuing education. While there, she discussed SFBP’s diversity efforts with the SFBP Diversity Committee.

4. Board Member Activities – Board Members
Reports by Board Members having Board business-related activities since the last monthly Board meeting or planned prospectively.

Commissioner Livingstone stated that one group of pilots completed a week long combination course at the California State University Maritime Academy earlier in the month, and that the training was updated to include the National Transportation Safety Board and United States Coast Guard recommended training on fatigue issues, and radar navigation in restricted visibility. He added training materials will be periodically updated, including the addition of knowledge centers that will contain training material on such topics as the human element and conflict resolution.

Port Agent Long confirmed for President Schmid that the updated training received positive reviews by the pilots.

5. Directors’ Report – Executive Director Garfinkle/Assistant Director Cristia-Plant

A) Correspondence and activities since the Board meeting held on March 21, 2017.

Executive Director Garfinkle reported on the correspondence and activities since the Board’s March meeting as follows:

- On March 28, 2017, Board staff received an email from Capt. Mark Manes providing details of a near-miss he experienced while piloting the T/V TORN ASLAUG from Richmond Long Wharf to sea. The report indicated a malfunctioning steering pump was to

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blame, and once the ship regained steering, the U.S. Coast Guard (USCG) cleared the ship to continue to sea.

- On April 4, 2017, Board staff received Dennis Bryant’s newsletter where he included an article about a program to develop a pilot program to replace TWIC (Transportation Worker Identity Credential) with an implantable microchip the size of a grain of rice. To gain entry a person would hold his or her hand near the sensor.
- On April 5, 2017, Board staff submitted the statutorily-required Annual Legislative Report to the California State Transportation Agency for the Secretary’s approval prior to submitting it to the Legislature.
- On April 7, 2017, Board staff received an executed copy of the Pilot Fatigue Study Non-Disclosure Agreement, signed by the San Jose State University Research Foundation and the San Francisco Bar Pilots.
- On April 13, 2017, he attended the April Harbor Safety Committee meeting held in Richmond.
- On April 18, 2017, Board staff received the Pacific Merchant Shipping Association (PMSA) West Coast Trade Report for April 2017.
- On April 20, 2017, he and SFBP President Joe Long attended a meeting with the staff at the University of California, San Francisco (UCSF) Medical Center of Environmental and Occupational Medicine Division. The annual meeting met the requirements of the contract with UCSF to meet annually with the Board’s physicians. The group discussed outstanding issues related to the pilot medical oversight.
- On April 26, 2017, Board staff sent letters out to all of the beneficiaries of the San Francisco Bar Pilot Pension regarding the Board approval for a cost of living adjustment to the individual monthly target pension amounts.

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

Executive Director Garfinkle reported on the following pilot licensing matters:

- Between the January and March Board meetings staff renewed the licenses of Captains Roberts, Lingo, Hirschfeld, Aune, Bridgman, Martin, and Lemke.
- Since the March Board meeting staff renewed the licenses of Captain’s Kasper, Melvin, Pate, Kirk, Livingstone, Murray, Billingsley, Horton, and McCloy.

C) Report on Board surcharges.

Executive Director Garfinkle reported the Board received a check from the SFBP for \$192,391.96 for the March 2017 surcharge revenues as follows:

- Board Operations Surcharge: \$105,534.96
- Continuing Education Surcharge: \$ 3,545.00
- Trainee Training Surcharge: \$ 83,312.00

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D) Report on legislative activities and contractual matters.

Assistant Director Cristia-Plant reported there was no legislation to report on. She reported the following on contractual matters:

- With a second SFBP emergency contract in place that terminates on June 30, 2017, Board staff continues to work on a new 5-year contract with the SFBP.
- Board staff are still awaiting a determination from the California Department of Human Resources (CALHR) if the two entities can enter into an interagency agreement for trainee drug testing under CalHR's master drug testing contract.
- The California Highway Patrol continues to work on contract procurement documents to retain CPA services for the San Francisco Bar Pilot Pension Plan. In the interim, staff continues to prepare the monthly pension plan reports, and the quarterly surcharge calculations.
- Commission Investigator contracts expire at the end of this fiscal year. Staff continue to work with contract staff at the California Highway Patrol for the procurement of Commission Investigators.
- Board staff contacted staff at CalPERS to discuss an interagency agreement to retain an actuary who will conduct an update of the 2009 actuarial study of the San Francisco Bar Pilot Pension Plan.

6. Port Agent's Report – Captain Joseph Long

A) Monthly report on pilot availability and absences.

For the month of April, 2017, Port Agent Long reported that Captain Kenyon has been absent for medical reasons (AFMR) since July 2, 2016, Captain Epperson has been AFMR since January 17, 2017, and Captain Pinetti has been AFMR since February 27, 2017.

Port Agent Long reported the SFBP continually monitors the dispatch list for possible 12 hour minimum rest period (MRP) exceptions, and if the potential exception is likely to result in a rest period of less than 10 hours, mitigating measures are employed by the SFBP. He reported that these measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings, cancelling previously granted compensating time off requests, suspending SFBP internal working rules, or calling in off-watch pilots.

He reported the SFBP currently has 58 licensed pilots. Additionally, he reported that there were 11 MRP exceptions in March, and that the shortest rest period was 9.1 hours.

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B) Monthly report on San Francisco Bar Pilots (SFBP) ship piloting business activity.

Port Agent Long reported the following:

- The P/V GOLDEN GATE was out of service for minor repairs to a hatch and a turbocharger cartridge replacement from March 28, 2017, through March 30, 2017.
- The P/V SAN FRANCISCO went out of service April 21, 2017, for repairs to a broken steering pin. The vessel entered dry-dock on April 22, 2017, for repairs and planned maintenance. Total repair time was estimated at 4 weeks.

Port Agent Long reported the billed vessel moves in March 2017:

- Bar Crossings: 557 Moves
- Bay Moves: 97 Moves
- River Moves: 45 Moves
- Total Moves: 699 Moves
- Gross Registered Tons (GRT) 31.8 Million

He reported that when comparing year-to-date 2017 vessel move data with the same year to-date period in 2016, total moves were up 3.7% and GRTs were up .5%. He reported that the 2 peer reviews were conducted in March.

C) Monthly confidential written report of pilots who have been absent for medical reasons (AFMR) presented to Board. The Board may go into closed session to discuss contents of the Port Agent’s confidential report as authorized by Harbors and Navigation Code § 1157.1.

There was no discussion of the confidential written report of pilots who have been absent for medical reasons. There was no closed session discussion of this item.

7. Pilot Evaluation Committee – Captain George Dowdle

A) Report on the Pilot Evaluation Committee (PEC) meeting held on April 19, 2017.

In the absence of PEC Chairman Dowdle, Executive Director Garfinkle presented the PEC report and stated the following:

- The PEC met on April 19, 2017.
- All trainees were interviewed individually in closed session.
- The five current trainees include: Captains Cvitanovic, Alfes, Vogel, McNamara and Greger.

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- The two newest trainees have started to test for their federal license route endorsements.
- There is one trainee in evaluation status.
- All trainees are continuing to progress and meet required benchmarks.
- The PEC is working as needed to assist Captain Dave Gates at the California State University Maritime Academy with the Pilot Trainee Training Program entrance examination materials.
- The next trainee is scheduled to start training in June 2017.
- The PEC will meet next on May 17, 2017.

Port Agent Long confirmed for Commissioner Hoppes the Pilot Power Committee is tasked with addressing pilot retirement forecasting, and recommending to the Board when to bring new trainees into the Pilot Trainee Training Program.

- B) Possible PEC recommendation to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program. Possible Board action to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program.**

There were no recommendations.

- C) Possible PEC recommendation for a determination that a trainee has or trainees have completed the Pilot Trainee Training Program. Possible Board action to award a Certificate of Completion to a trainee who has completed the Pilot Trainee Training Program.**

There were no recommendations.

- D) Possible recommendation from the Executive Director for the appointment of a new pilot or pilots. Possible Board action to accept a recommendation from the Executive Director that a trainee holding a Certificate of Completion from the Pilot Trainee Training Program be licensed as a state-licensed pilot.**

There were no recommendations.

- 8. Reported safety standard violations – Executive Director Garfinkle (Reports received between the issuance of this notice and the meeting will also be reported on.)**

Executive Director Garfinkle stated there was nothing to report.

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9. Reportable Piloting Events – Executive Director Garfinkle

(Reports received between the issuance of this notice and the meeting will also be reported on.)

- A) Progress report on an event involving the M/T STI ST CHARLES making unintended contact with the pier at Shell Martinez #3 while docking on January 7, 2017. Possible Board action to grant the Incident Review Committee an extension to present the M/T STI ST. CHARLES report at the Board meeting to be held on May 25, 2017,.**

Executive Director Garfinkle stated that the Incident Review Committee (IRC) will present its report on the M/T STI ST CHARLES later in the meeting.

- B) Progress report on an event involving the MV SEA PROTEUS mast’s contact with the Benicia-Martinez Union Pacific Railroad Bridge while underway from Anchorage 9 to Pittsburg on February 18, 2017. Possible Board action to grant the Incident Review Committee an extension to present the M/V SEA PROTEUS report at the Board meeting to be held on May 25, 2017.**

Executive Director Garfinkle reported that the piloting event involving the M/V PROTEUS occurred on February 18, 2017, and that the 90-day date for the IRC report is May 19, 2017. He reported that the IRC has not completed its report due to staff workload, and that the IRC respectfully requests an extension of time beyond the 90-day statutory reporting timeline to present the investigation report at the May Board meeting.

MOTION: Vice President Connolly moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V PROTEUS event at the May 2017, Board meeting. President Schmid seconded the motion.

VOTE: YES: Schmid, Connolly, Hoppes, Livingstone, Nyborg and Schneider.
NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

10. Loss of propulsion/low sulfur fuel report – Executive Director Garfinkle

Report on loss of propulsion events arising in March 2017, as reported by the U.S. Coast Guard, including those events suspected to be due to low sulfur fuel issues.

Executive Director Garfinkle reported that there was one loss of propulsion incident in March according to the United States Coast Guard’s San Francisco Harbor Safety Statistics report. He reported this incident was not attributed to fuel switching.

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11. Pilot Fatigue Study Progress Report – Executive Director Garfinkle/Assistant Director Cristia-Plant
Progress report on the Pilot Fatigue Study being conducted by the San Jose State University Research Foundation.

Assistant Director Cristia-Plant provided the following update on the Pilot Fatigue Study:

- San Jose State University Research Foundation (SJSURF) researchers had a successful meeting with the San Francisco Bar Pilots on April 5, 2017, to discuss the study and study methodology.
- The Nondisclosure Agreement between the SJSURF and the SFBP was executed on April 6, 2017.
- Researchers have made final preparations to start the analysis of pilot dispatch records.
- Five additional researcher ride-alongs were conducted since the March Board meeting including a few at night.
- The researchers report that they are continuing to gather material for the literature review portion of the study.

12. Report on fee and surcharge recovery actions involving pilotage services provided to vessels operated by Hanjin Shipping Company – SFBP Business Director/General Counsel Paetzold

A) Status report on fee and surcharge recovery actions involving pilotage services provided to vessels operated by Hanjin Shipping Company.

Mr. Paetzold reported that the SFBP has reached tentative settlement with the owners of the HANJIN TABUL and the HANJIN NAMU. He reported that as the tentative settlement is less than full payment of the fees and surcharges billed for pilotage services and surcharges for those two vessels, the SFBP may petition to the Board to enter into a settlement agreement for payment on pilotage fees and surcharges owed by HANJIN TABUL and HANJIN NAMU, operated by Hanjin Shipping Company

Mr. Paetzold reported that the SFBP previously settled with the owners of the HANJIN GERMANY and HANJIN ITALY for the full amount due, approximately \$58,000.00. He reported the payments for these two HANJIN vessels are in escrow, and projected to be paid out of escrow in June 2017. He also reported that the SFBP settled with the owners of the HANJIN YANTIAN and the HANJIN DALLAS also for the full amount due, approximately \$42,000.00, and that the payments from these vessel owners has been received.

Mr. Paetzold reported that no agreements have been reached to date with the owners of the remaining three ships: the HANJIN SEATTLE, HANJIN UNITED KINGDOM, and HANJIN

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KOREA. He reported that the ultimate recovery on those claims from Hanjin assets in bankruptcy remains uncertain.

Mr. Paetzold reported that as of March 31, 2017, the SFBP has expended approximately \$30,000.00 in outside legal fees in its efforts to recover the pilotage fees and surcharges for services provided to the Hanjin Shipping Company.

B) Possible petition by SFBP to enter into a settlement agreement for payment on pilotage fees and surcharges owed by HANJIN TABUL and HANJIN NAMU, operated by Hanjin Shipping Company. Possible Board action to approve SFBP’s petition to enter into a settlement agreement for a reduction in the amount owed for Board-approved surcharges incurred by the HANJIN TABUL and HANJIN NAMU.

Mr. Paetzold summarized the Port Agent’s petition under Title 7, California Code of Regulation, Section 219(a) to cease or limit collection efforts as allowed by regulations relative to the owners of two of the ships chartered by Hanjin—the HANJIN TABUL and the HANJIN NAMU—on the basis that such efforts would not be economical in light of the costs of collection. He confirmed that the SFBP has negotiated with owners of these two vessels to pay \$40,000 of the \$57,450.17 amount due (approximately 70%), and that the SFBP has determined that the litigation and related costs to attempt to collect the full amount from these particular parties would be disproportionate to the amount of recovery and uneconomic.. He further stated that if the Board approved of collecting less than the full amount owed for these two vessels, the amount collected for pilotage fees and each surcharge will be proportionately reduced.

Mr. Paetzold confirmed for Board Counsel Eagan that he is unsure why some vessel owners who chartered vessels to Hanjin agreed to pay the full amount due.

Mr. Paetzold confirmed for Commissioner Hoppes that the SFBP reviews the creditworthiness of its clients, and that select clients pay cash in advance for pilotage services. He stated that the SFBP accounts receivables staff reviews all accounts that fall 30-days past due, and that all customers with late payments are contacted for follow-up. Port Agent Long noted that the SFBP is looking into the costs and feasibility of acquiring trade credit insurance.

MOTION: Vice President Connolly moved that the Board accept the SFBP’s petition to enter into a settlement agreement with the owners of the HANJIN TABUL and HANJIN NAMU for a payment of \$40,000 in satisfaction of the full amount billed, and that the SFBP is to proportionately allocate the amount collected for Board-approved surcharges by the fraction of the amount collected to the amount billed. Commissioner Hoppes seconded the motion.

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VOTE: YES: Schmid, Connolly, Hoppes, Livingstone, Nyborg and Schneider.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

13. Navigation Technology Equipment and Software acquisition update – SFBP Business Director/General Counsel Paetzold
Status report on the navigation technology equipment and software acquisition.

Mr. Paetzold reported that the precision docking system hardware, which is set to replace PilotMate equipment, has been shipped by Trelleborg AB and should arrive early next week. He stated that the SFBP has received the software and has trained almost all of the E-Pilots on the new software. He stated the precision docking system should be in service by early May, and that the SFBP plans to keep the existing PilotMate units in reserve for a brief period until the pilots are satisfied with the performance of the new equipment.

Mr. Paetzold reported that the hardware for the enhanced route piloting system is scheduled to arrive the second week of May and that the units should be ready to be issued to pilots by the end of May.

Mr. Paetzold reported that due to fluctuations in the Euro exchange rate and final determination by U.S. Customs regarding any potential import duty or related expenses, final navigation technology equipment costs should be known once delivery is accepted, units are tested, and payment is wired. He reported the SFBP has 30 days from delivery date to pay the all amounts due. He stated the current total cost estimates remain within the amounts preliminarily authorized by the Board in January 2017, and that the SFBP will provide navigation technology status reports to the Board and its committees through Board staff.

14. Progress Report on the Pilot Trainee Training Program Selection Examination - Director Garfinkle.
Report on the progress of the Pilot Trainee Training Program Selection Examination.

Executive Director Garfinkle reported that the Pilot Trainee Training Program examination application cutoff date was April 15, 2017. He reported that 32 applications were received and review of the applications will commence next week. He stated that traditionally, a few applications do not meet the minimum requirements and that he hopes the \$1,000 application fee reduced the number unqualified applicants.

Executive Director Garfinkle confirmed for Vice President Connolly that there were in excess of 50 applications for the 2014 Pilot Trainee Training Examination, although only 34-35 met the minimum qualifications.

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Commissioner Nyborg commented that he was aware that several entities were offering pilot written practice tests and simulator test preparation courses to assist applicants with passing pilot training entrance examinations such as the Board's Pilot Trainee Training Program entrance examination. He stated that, in his opinion, it would be a conflict of interest if the California State University Maritime Academy offered a pilot training program entrance examination simulator test preparation course since the Board utilizes its staff and simulator facilities for its own entrance examination.

15. Report on the status of San Francisco Bar Pilot Pension Plan litigation – Board Counsel Eagan

Status report on Craig E. Reeder vs. State Board of Pilot Commissioners litigation. The Board may go into closed session to discuss with Board Counsel any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.

Board Counsel Eagan stated there was nothing to report.

16. Board discussion of best practices in maritime safety – Vice President Connolly

A Board discussion of best practices in maritime safety and/or lessons learned from Incident Review Committee incident reports or other sources, and possible directions to staff to develop safety policies and procedures. Possible Board action to direct staff to develop safety policies and procedures.

Vice President Connolly stated there was nothing to report.

President Schmid then delegated the Chairman duties to Vice President Connolly, and assumed her position as a member of the Incident Review Committee along with with Executive Director

17. Incident Review Committee incident report on the M/T STI ST. CHARLES - President Schmid

A presentation of the Incident Review Committee report concerning the unintended contact between the M/T STI ST. CHARLES and the Shell Oil Terminal platform (MRZ3) on January 7, 2017. 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 incident report presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3).

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With Chairman Schmid's permission, Executive Director Garfinkle presented the IRC report on the allision between the M/T STI ST CHARLES and the Shell Oil Terminal platform (MRZ3).

He reported that on the afternoon of January 7, 2017 the MT STI ST CHARLES (ST CHARLES) came alongside the Shell Martinez Berth #1 after having arrived from sea, and was in ballast condition with substantial freeboard. He stated the investigation determined that vessel was brought alongside the platform with the bow of the vessel at a slight angle off the pier, and that the pilot had planned to gently land the stern on the Yokohama fender (a large rubber floating cylinder used as a fender) and pivot the bow into position. He reported that as the stern settled into the fender aft, due to the high freeboard and exposed counter of the stern, the counter overrode the pier as the ship pressed into the fender, and made contact with the steel gangway platform grating. The investigation determined that neither the pilot nor the ship master was aware of the contact at the time, but the contact did offset the grating by about ¾ of an inch, bending four anchor bolts and fracturing the cover plate weld. He stated the damage, while seemingly minimal, was estimated at \$37,800.00 to repair, and there was no damage to the ship's hull.

Executive Director Garfinkle stated the IRC determined the standard of care for this event was whether the actions of the pilot were reasonable in the circumstances. Here the pilot landed the ship nearly parallel to the pier in a controlled landing, but due to the high freeboard, the stern overrode the pier enough to make contact with the gangway platform. He stated the investigation concluded that there are circumstances where there can be damage in spite of reasonable actions taken by a pilot, and this incident one of those circumstances. He stated the recommendation of the IRC was for a finding of no pilot error and that the investigation be closed with no further action.

The Board members discussed the circumstances of the incident, including variety of types of fendering systems and the State Lands Commissions oversight responsibilities of dock designs.

MOTION: Vice President Connolly moved that the Board accept the Investigation Review Committee's recommendation regarding the unintended contact between the M/T STI ST. CHARLES and the Shell Oil Terminal platform (MRZ3) on January 7, 2017, that the Board find for no pilot error and that the investigation be closed without further action. Commissioner Livingstone seconded the motion.

VOTE: YES: Schmid, Connolly, Hoppes, Livingstone, Nyborg and Schneider.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

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Vice President Connolly then yielded the Chairman duties back to President Schmid.

- 18. Board discussion of Section 87406 of the Political Reform Act as it relates to the role of a former Commissioner acting in the role of Port Agent, and as brought to the attention of the Executive Director by Mike Jacob, Vice President and General Counsel of the Pacific Merchant Shipping Association in his letter dated January 5, 2017. – Board Counsel Eagan**

Discussion of Section 87406 of the Political Reform Act as it relates to a former Commissioner acting in the role of Port Agent. The Board may go into closed session to discuss with Board Counsel any matters subject to attorney-client privilege as per Government Code §11126 (e) of the Bagley-Keene Open Meeting Act.

President Schmid read the agenda item, called for a short recess, and stated that the meeting would resume in closed session to discuss agenda item 18.

RECESS BEGAN	11:11 A.M.
RECESS ENDED AND CLOSED SESSION BEGAN:	11:20 A.M.
OPEN MEETING RESUMED:	12:19 P.M.

There was no report out of closed session.

- 19. Performance Evaluation of the Executive Director – President Schmid**
Annual Performance Evaluation of Executive Director. The Board may go into closed session pursuant to 11126(a)(1) of the Bagley-Keene Open Meeting Act to discuss the evaluation.

President Schmid deferred this agenda item to the next Board meeting.

- 20. Public comment on matters not on the agenda.**

There were no comments from the public.

- 21. Proposals for additions to next Board meeting agenda.**

There were no proposals for additions to the next Board meeting agenda.

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22. Adjournment.

MOTION: President Schmid moved to adjourn the meeting. Vice President Connolly seconded the motion.

VOTE: YES: Schmid, Connolly, Hoppes, Livingstone, Nyborg and Schneider.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved. The meeting was adjourned at 12:19 P.M.

Submitted by:



Allen Garfinkle, Executive Director