

<p><b>Meeting Date:</b> <b>September 24, 2015</b></p>	<p><b>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</b></p> <p><b>BOARD MEETING MINUTES</b></p>	<p><b>Page 1 of 15</b></p>
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**Board Members Present**

RADM. Francis Johnston, President, Public Member  
 Dave Connolly, Vice President, Public Member  
 Capt. George H. Livingstone, Pilot Member  
 Capt. Joe Long, Pilot Member  
 Jennifer Ferrera Schmid, Public Member  
 John Schneider, Wet Cargo Industry Member  
 Benjamin De Alba, Assistant Secretary for Rail and Ports,  
 representing the Secretary of the California State Transportation Agency

**Board Members Absent**

Vacant, Dry Cargo Industry Member

**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**

Acting Port Agent John Carlier; Pacific Merchant Shipping Association (PMSA) President John McLaurin and Vice President Mike Jacob; San Francisco Bar Pilots (SFBP) Business Manager-General Counsel Ray Paetzold and Captain William Greig; Rex Clack, Esq.; and Richard Hernandez, State Lands Commission.

**OPEN MEETING:**

**1. Call to Order and Roll Call – President Johnston**

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

**2. Review and approval of Board meeting minutes – President Johnston**

**Board action to approve Board meeting minutes from the meeting held on August 27, 2015.**

Board members were presented with the minutes of the meeting held on August 27, 2015, for approval. There were minor clerical edits suggested. There was no public comment.

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- MOTION:** Vice President Connolly moved to approve the minutes of the meeting held on July 23, 2015, as edited. Commissioner Schmid seconded the motion.
- VOTE:** YES: Johnston, Connolly, Livingstone, Long, Schmid and Schneider.  
NO: None.  
ABSTAIN: None.
- ACTION:** The motion was approved.

**3. Announcements – President Johnston**

**Announcement of events affecting Board business since the last Board meeting.**

There were no announcements

**4. Board Member Activities – Board Members**

**Reports by Board members having Board business related activities since the last monthly Board meeting or planned prospectively.**

There were no reports

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

**A) Correspondence and activities since the August, 2015 Board meeting.**

Executive Director Garfinkle reported on correspondence received by the Board Since August 27, 2015:

- On September 1, 2015, the United States Coast Guard (USCG) issued Marine Safety Alert 8-15 titled, “Asleep at the Wheel: When Fatigue catches up,” that outlined fatigue aboard fishing vessels, and provided an interesting perspective on fatigue related issues.
- On September 12, 2015, staff received notice that Pilot Trainee Training Prpgram trainee Michael Rubino intended to accept a trainee position with the Los Angeles Pilots. On September 20, 2015, Captain Rubino submitted a written letter resigning from the program effective Sept. 14 2015.
- On September 14, 2015, and September 21, 2015, Commissioner Long sent staff various links to media coverage of Assembly Bill 1432, and requested that his emails be forwarded to the Commissioners.
- On September 23, 2015, Executive Director Garfinkle mailed a letter to Justin Gleaton, Dock Master at BAE Systems Ship Repair facility in San Francisco, communicating the recommendations of the Board resulting from the USNS MATTHEW PERRY grounding, specifically that BAE develop a method for

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regularly ascertaining whether the Pier 5 Shoal buoy is accurately positioned and to develop a plan to ensure effective communication of this information to the pilots and involved ship personnel.

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

Executive Director Garfinkle reported between the July and August Board meetings, staff renewed the licenses of Captains Coney, Merritt, Laakso, Boriolo, and Burger. Since the August meeting, licenses were renewed for Captains Kleess and LeSieur.

**C) Report on Board surcharges.**

Executive Director Garfinkle reported the Board received a check from the SFBP for \$73,634.05 for August 2015 surcharge revenues as follows:

- Board Operations Surcharge: \$30,269.05
- Pilot Continuing Education Surcharge: \$ 3,585.00
- Trainee Training Surcharge: \$39,780.00

**D) Report on legislative activities and contractual matters.**

Assistant Director Cristia-Plant reported the following legislative matter:

- Assembly Bill 1432, the bar pilotage rate increase bill authored by Assemblymember Bonta, was placed in the Senate inactive file on September 10, 2015, by Senator Wieckowski at the author's request.

Assistant Director Cristia-Plant reported the following contractual matters:

- The interagency agreement with the State Controller's Office (SCO) for the audit of surcharges and pilotage rates has been drafted. Unfortunately, the scope of work did not encompass the "agreed upon procedures" audit requested. Staff recently had a conference call with SCO for clarification purposes, and SCO staff will rewrite the contract and return it to Board staff in the near future.
- Commissioners Livingstone and Long have provided input into the point scoring criteria for the manned model facility request for qualifications. Staff are currently reviewing their suggestions and will provide updated criteria to CHP contracting staff in the near future.
- Staff provided the California Department of Human Resources (CalHR) staff who work in the division that provides job analysis and test administration services for other state entities with a previously completed pilot job analysis and final reports from the Pilot Trainee Training Program Entrance Examination, and conducted a

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conference call to discuss the possibility of CalHR providing program testing services. From these initial discussions with CalHR staff, it appears that CalHR may have the staffing capacity and resources to provide a pilot job analysis and the Trainee Training Program Entrance Exam services to the Board, and CalHR staff have requested additional time to review the documentation.

Commissioners expressed concern about the reasons for Trainee Rubino’s exiting the Pilot Trainee Training Program. Executive Director Garfinkle reported that Captain Rubino conveyed to him that he has family ties to the Port of Los Angeles and the area. He also stated that he conducted an exit interview with Captain Rubino, and did not find that Captain Rubino had anything negative to say about the program.

**6. Port Agent’s Report – San Francisco Bar Pilot (SFBP) Port Agent Capt. Peter McIsaac**

**A) Monthly report on pilot availability and absences.**

Acting Port Agent Carlier reported that two pilots—Captains Chapman and Kelso—have been absent this month, or a portion thereof, for medical reasons.

**B) Monthly report on SFBP ship piloting business activity.**

Acting Port Agent Carlier stated that the SFBP continually monitors the dispatch list for possible minimum rest period exceptions, and identified a variety of mitigating measures employed if circumstances are likely to result in a rest period of less than ten hours. He reported that the SFBP currently has 58 licensed pilots, that there were 15 minimum rest period exceptions in July.

He also reported that the P/V GOLDEN GATE was down for routine maintenance on September 1, 2015, and again from September 5-12 due to a failed thermostat housing.

Acting Port Agent Carlier reported the following vessel move data when compared to a three-year average:

- Bar Crossings 536 moves/-11.1%
- Bay Moves 145 moves/+40.2%
- River Moves 43 moves/+27.3%
- Total Moves 724/-1.4%
- Gross Registered Tons (GRT): 29.5 million/-8.0% year to date (YTD)

He further reported that when comparing YTD piloting activity in 2015 to 2014, total moves were down 4.3%, and GRT was down 12.4%.

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**C) Monthly confidential written report of pilots who have been absent for medical reasons (AFMR) presented to Board. 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 Einar Nyborg**

**Report on the August 19, 2015, Pilot Evaluation Committee meeting.**

Chairman Nyborg was not present at the meeting, and Acting Port Agent Carlier gave the Pilot Evaluation Committee (PEC) Chairman’s report on his behalf. He reported the PEC met on September 23, 2015. Current trainees in the Pilot Trainee Training Program are progressing well. Their time in the program ranges from 1-13 months. One trainee recently resigned after 13 months in the program in order to begin training with the Los Angeles Pilots.

The Committee is concerned with the lack of fog days that have existed over the last year for trainees to use their restricted visibility navigation skills. In an attempt to provide trainees with adequate fog training, the PEC has begun using “fog booth,” which consists of a sheet to block a trainee’s view while allowing him to access radar equipment. This training technique is intended to sharpen piloting skills while a supervising pilot oversees the trainee reducing risks. He also reported that the training technique must be approved by a ship’s master before it is employed.

Additionally, Acting Port Agent Carlier reported the Board was provided with short biographies of the two new trainees who entered the program on September 2, 2015.

The PEC will next meet on October 21, 2015.

**8. Reported safety standard violations – Executive Director Garfinkle**

**Reporting on safety standard violations since the last Board meeting. (Reports received between the issuance of this notice and the meeting will be reported on.)**

Executive Director Garfinkle reported that he had received a Pilot Boarding Arrangements Deficiency Report from Captain Martin that described a very old ladder with frayed rungs, and contained photographs from the M/V DIANTHUS showing repairs made to the pilot ladder ropes.

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**9. Reportable Piloting Events – Executive Director Garfinkle**

- A) **Status report on the passage of the M/V ROOK to Stockton on March 22, 2015, where, once docked, the vessel was detained by the USCG Port State Control for lacking navigation charts for the passage from New York Point to Stockton. Possible Board Action to grant an extension to present the M/V ROOK Incident Review Committee report to the September Board meeting. If an extension is requested, the delay in presenting the report will be due to the Board staff workload.**

Executive Director Garfinkle stated that he would report on the M/V ROOK under item number 20, and that no extension was requested.

- B) **Status report on the passage of the M/V FUJI GALAXY and the M/V CS SARAFINA on April 28, 2015 when the M/V FUJI GALAXY was underway into the Port of Stockton and the M/V CS SARAFINA, moored at berth 10, Port of Stockton suffered damage to her gangway. Possible Board Action to grant an extension to present the M/V FUJI GALAXY Incident Review Committee report to the September Board meeting. If an extension is requested, the delay in presenting the report will be due to the investigation is not complete.**

Executive Director Garfinkle requested an extension on the report of the Investigation Review Committee (IRC) investigation into the M/V FUJI GALAXY to the October Board meeting, and reported the IRC is still actively conducting the investigation.

**MOTION:** Vice President Connolly moved to grant an extension for submission of the M/V FUJI GALAXY IRC report to the October Board meeting.

Commissioner Schneider seconded the motion.

**VOTE:** YES: Johnston, Connolly, Livingstone, Long, Schmid and Schneider.

NO: None.

ABSTAIN: None.

**ACTION:** The motion was approved.

- C) **Status Report on the allision of the M/V JIANGMEN TRADER with San Joaquin River lighted marker 47 on June 27, 2015. Possible Board action to grant an extension to present the M/V JIANGMEN TRADER Incident Review Committee incident report at the October Board meeting. If an extension is requested, the delay in presenting the report will be because the investigation is not complete.**

Executive Director Garfinkle reported that the investigation is ongoing, and that he recently received information obtained from his Freedom of Information Act requests from the USCG that are currently being reviewed. Executive Director Garfinkle requested an extension for the IRC report to the October Board meeting.

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**MOTION:** Vice President Connolly moved to grant an extension for submission of the M/V JIANGMEN TRADER IRC report to the October Board meeting. Commissioner Schneider seconded the motion.

**VOTE:** YES: Johnston, Connolly, Livingstone, Long, Schmid 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 since last meeting, including those events suspected to be due to low sulfur fuel issues.**

Executive Director Garfinkle reported on loss of propulsion incidents for July and August 2015, as reported by the USCG at the September Harbor Safety Committee meeting. He noted that there were three loss of propulsion incidents reported in July, one of which was attributable to fuel switching. During August, there were five loss of propulsion incidents and two were attributed to fuel switching.

Executive Director Garfinkle also reported on a loss of propulsion incident that was reported to him by the Port Agent. Per the Port Agent’s report, on September 16, 2015, SFBP Capt. Mark Manes was piloting the loaded T/V DUBAI GLAMOUR, when it had a sudden engine failure and propulsion was lost completely. Capt. Manes radioed to the USCG Vessel Traffic Service to do an “All Call” over radio for tug assistance. TUGS PATRICIA ANN, LIBERTY, and DELTA BILLIE temporarily anchored near the Golden Gate Bridge, and subsequently brought the ship into the Bay after avoiding a potential environmental disaster.

Additionally, the Port Agent reported to Executive Director Garfinkle that on September 17, 2015, Capt. David Merritt was piloting the M/V XING JING HAI when he experienced a loss of propulsion as he navigated under the Richmond-San Rafael Bridge. The Port Agent further reported that after several failed attempts to restart the engine, Captain Merritt called for tugs to assist the ship, but was able to get the engine started and dismissed one of the tugs, while the other escorted the ship to Anchorage 9. It was later learned that a water pump had been disabled, which caused the engine to reduce power.

Referring to Captain Manes’ loss of propulsion event, Executive Director Garfinkle confirmed for Vice President Connolly that unlike the San Juan Straits in Washington, there isn’t a regular tug stationed at the Golden Gate Bridge. Vice President Connolly offered his commendation to Capt. Manes on a job well-done. Commissioner Livingstone stated that he requested a “lessons learned” statement from Capt. Manes, and reported that the Harbor

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Safety Committee has been working on this issue and will eventually complete a risk assessment and publish a rescue plan for the area.

## **11. Report of the Rules and Regulations Committee – Commissioner Long**

### **A) Report on the September 17, 2015 Rules and Regulations Committee meeting.**

Commissioner Long reported that the Committee met on September 17, 2015, and discussed the rulemaking package presented by staff covering the items mentioned in Agenda items 12 (B), (C), (D) and (E) below.. Board Counsel Eagan provided some minor edits to the rulemaking documents. Board Counsel Eagan reviewed the major items included in the Notice of Proposed Rulemaking to this omnibus regulation package, and explained that the proposed regulations also include cleanup of items related to the trainee examination process that were added to 7 California Code of Regulations (CCR) § 213 specifically for the 2014 examination.

Board Counsel Eagan also apprised the Board that he was finalizing the Initial Statement of Reasons and Notice for the rulemaking package on 7 CCR § 222.

### **B) Review possible recommendation from Committee to accept amendments to 7 CCR Sections 211.5, 213, 215, 218, and to direct staff to commence formal rulemaking. Possible Board action to accept recommendations from Committee and approve amendments to 7 CCR Sections 211.5, 213, 215, 218, and to direct staff to commence formal rulemaking.**

**MOTION:** Commissioner Long moved to accept the package, as amended, and direct staff to begin the formal rulemaking process. Vice President Connolly seconded the motion.

**VOTE:** YES: Johnston, Connolly, Livingstone, Long, Schmid and Schneider.  
NO: None.

ABSTAIN: None.

**ACTION:** The motion was approved.

## **12. Board Rulemaking status report – Executive Director Garfinkle/Assistant Director Cristia-Plant**

**Report on the status and progress of various Board rulemaking efforts, including the following sections in title 7 California Code of Regulations:**

- A) Section 222 – Conflicts of Interest (add Port Agent Conflict Of Interest regulation).**
- B) Section 213 – Pilot Trainees (add exam fee and cleanup of regulations).**



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- C) **Section 218 – Duties of Port Agent (amend requirement for assignments of pilots with under 12 and under 18 months’ experience).**
- D) **Section 211.5 – Commission Investigator Minimum Standards (amend minimum qualifications).**
- E) **Section 215 – Pilot and Inland Pilot Training (add fatigue management and navigation in low/restricted visibility training and clean-up).**

Sections 211.5, 213, 215, and 218 were discussed under Agenda item 11.

### **13. Finance Committee – Commissioner Schneider**

- A) **Report on September 17, 2015, meeting of the Finance Committee.**
- B) **Finance Committee recommendations to the Board on the following Board surcharges:**
  - a. **Board Operations Surcharge (currently 1%): Possible recommendation by Committee to change surcharge. Possible Board action to affirm recommendation, change, or not change the Board Operations Surcharge.**
  - b. **Pilot Continuing Education Surcharge (currently \$5 per move): Possible recommendation by Committee to change surcharge. Possible Board action to affirm recommendation, change, or not change the Continuing Education Surcharge.**
  - c. **Pilot Trainee Training Surcharge (currently \$10/trainee/move): Possible recommendation by Committee to change surcharge. Possible Board action to affirm recommendation, change, or not change the Pilot Trainee Training Surcharge.**
  - d. **Pilot Vessel Surcharge (currently at 3.27 mills or \$0.00327): Possible recommendation by Committee to change surcharge. Possible Board action to affirm recommendation, change, or not change the Pilot Vessel Surcharge.**

Commissioner Schneider reported that the Finance Committee met on September 17, 2015, and discussed the status of the funds, the various surcharges, including trends, and the remainder of necessary funding for the pilot fatigue study. He thanked Assistant Director Cristia-Plant for her preparation of financial documents that allow Committee members to better understand the Board’s fund condition, and historical and projected surcharge revenues. He further reported that the Finance Committee recommended to the Board to maintain all surcharges at the same level for the fourth quarter of 2015.

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- MOTION:** Vice President Connolly moved to accept the Committee’s recommendation to maintain all surcharges at the current level. Commissioner Schmid seconded the motion.
- VOTE:** YES: Johnston, Connolly, Livingstone, Long, Schmid and Schneider.  
NO: None.  
ABSTAIN: None.
- ACTION:** The motion was approved.

**14. Joint Pilot Safety and Continuing Education Committee – Commissioner Livingstone**

**A) Report on the Joint Pilot Safety and Continuing Education Committee meeting held September 4, 2015.**

Commissioner Livingstone reported that the Pilot Safety and Continuing Education Committees met together on September 4, 2015, and completed a mission statement for the Pilot Safety Committee. The Joint Committee discussed: updating the restricted visibility training module; novel methods to provide computerized annual restricted visibility training; ongoing discussions amongst the SFBP how best to structure annual pilot underway evaluations; and, the SFBP has provided the initial funding for an under-keel clearance (UKC) study which will gather data that will need to be further analyzed in subsequent phases of the study.

**B) Review and consider Committee recommendation that the Board approve and endorse the San Francisco Bar Pilots’ dynamic under keel clearance study. Possible Board action to approve and endorse San Francisco Bar Pilots’ dynamic under keel clearance study.**

The SFBP has provided \$26,000 to conduct the initial data collection phase of an UKC study, and will need seek further study funding from stakeholders and the maritime community.

- MOTION:** Vice President Connolly moved that the Board endorse the UKC study and seek stakeholder support. Commissioner Livingstone seconded the motion.
- VOTE:** YES: Johnston, Connolly, Livingstone, Long, Schmid and Schneider.  
NO: None.  
ABSTAIN: None.
- ACTION:** The motion was approved.

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**15. Report on the status of Public Records Act litigation – Board Counsel Eagan**

**Status report on Public Records Act litigation: Pacific Merchant Shipping Association vs. BOPC and Peter McIsaac as Port Agent, Writ of Mandate. 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 reported that a court hearing at the First District Court of Appeal, located in San Francisco, is scheduled for October 29, 2105.

**16. Report on Board of Pilot Commissioners vs. Fair Political Practices Commission litigation initiated by the Board on March 3, 2015 – Executive Director Garfinkle/Assistant Director Cristia-Plant**

**Progress report on Board of Pilot Commissioners vs. Fair Political Practices Commission. The Board may go into closed session to discuss with the Executive Director/Assistant Director, any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.**

Executive Director Garfinkle reported that a hearing is scheduled at the Sacramento Superior Court on September 25, 2015 at 9:00 a.m.

**17. Report on litigation, Craig E. Reeder vs. State Board of Pilot Commissioners initiated by Captain Craig Reeder on December 17, 2014 – Board Counsel Eagan**

**Progress report on Reeder vs. Board of Pilot Commissioners. The Board may go into closed session to discuss with the 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 reported that oral arguments are scheduled at the San Francisco Superior Court on September 30, 2015. There have been no new developments.

**18. Report on Stipulation for Settlement and Mutual Release in Peinado vs. Board of Pilot Commissioners, Case No. 964430 – Board Counsel Eagan**

**Report regarding the Stipulation for Settlement and Mutual Release in Peinado vs. Board of Pilot Commissioners, Case No. 964430. 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).**

Board Counsel Eagan reported that Board staff has heard nothing further from either Capt. Peinado or his attorney.

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**19. 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 development of policies and procedures.**

Vice President Connolly reported that he was impressed that the PEC is being proactive by providing Pilot Trainee Training Program trainees restricted visibility training, and likewise the SFBP for continuing to consider how to develop a useful pilot while underway evaluation process. He also briefly mentioned that there are safety lessons to learn from recent IRC reports on the USNS MATHEW PERRY and M/V ROOK.

**PRIOR TO THE IRC REPORT IN AGENDA ITEM 20, THE BOARD CONSIDERED AGENDA ITEMS 21-23.**

**21. Incident Review Committee report on the grounding of the M/V FUJI GALAXY – President Johnston**

**A presentation of the Incident Review Committee incident report concerning the interaction between the M/V FUJI GALAXY and the M/V CS SARAFINA in the Port of Stockton on April 28, 2015. 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).**

An extension to this item was granted under item 9.

**22. Public comment on matters not on the agenda.**

Mr. Jacob submitted a letter to President Johnston dated September 24, 2015, regarding a request from PMSA for the Board to take action on updating the Board’s actuarial review of the San Francisco Bar Pilot Pension Plan that was conducted in January, 2009. The letter requested that an item be placed on the agenda for discussion at the October Board meeting.

**23. Proposals for additions to next month’s agenda.**

An agenda item for discussion of the Pilot Pension actuarial evaluation will be added to the next meeting’s agenda. There were no additional October 2015 agenda proposals.

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## **20. Incident Review Committee report on the M/V ROOK – President Johnston**

**A presentation of the Incident Review Committee (IRC) report on the M/V ROOK’s passage to Stockton on March 22, 2015, where once docked, the vessel was detained by the United States Coast Guard Port State Control for lacking navigation charts for the passage from New York Point to Stockton. This report reflects the IRC’s decision to discontinue the investigation based on 7 CCR §210 (b)(3). 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).**

**PRIOR TO THE BREAK, PRESIDENT JOHNSTON RECUSED HIMSELF AS CHAIR, AND AUTHORIZED VICE PRESIDENT CONNOLLY TO RESUME THE MEETING AFTER THE BREAK AS THE CHAIR.**

**RECESS: 10:45 a.m.**

**RETURN: 11:10 a.m.**

Acting President Connolly called the meeting back to order. President Johnston assumed his position as a member of the IRC for the presentation of the Report on the M/V ROOK. Chairman Johnston introduced Executive Director Garfinkle to make the presentation on behalf of the IRC.

Executive Director Garfinkle reported that the details of the M/V ROOK event were brought to the attention of the IRC by the USCG on March 25, 2015. During a routine inspection of the vessel in the Port of Stockton, USCG Port State Control found that the ship had transited the previous day from San Pablo Bay to the Port of Stockton without the required navigational charts on board. The crew relied solely on the pilot’s personal electronic navigation charts for that segment of the trip. He stated the USCG detained the ship in Stockton pending acquisition of the proper charts and the creation of an acceptable passage plan.

Executive Director Garfinkle reported:

- One bar pilot brought the ship from the Sea Buoy to the Golden Gate, whereupon two pilots boarded and the bar pilot disembarked. These two pilots were aboard for the transit to Stockton. According to the master of the M/V ROOK, he informed the bay and river pilots that he only had British Admiralty charts and none for the river passage, and the pilots did not seem concerned. Upon taking over at New York Point, Capt. Cloes discussed with the crew the particulars of the route, including the tide and current conditions, traffic, under-keel clearance, and expected weather. At this time, no deficiencies or exceptions were reported.

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- Capt. Cloes inquired of the master of the M/V ROOK whether he would like to view the general location where they intended to meet a down-bound ship on the chart or on his Portable Piloting Unit (PPU). Such a meeting is an important event and Capt. Cloes intended to make the master aware of all available details concerning the meeting. It was at this point that he recalled the master informing him that they did not have charts of the area and would need to view it on the PPU. Upon learning this, Capt. Cloes and the master reviewed the data on his PPU. Capt. Cloes felt he had all the navigation tools he needed to complete the journey safely. His PPU had up-to-date charts and he carries a paper copies with him. He reported that his only use for the ship's charts is to show the master areas such as meeting points, berths, etc. The trip was completed without incident.
- NVIC 01-15 provides some guidance in the matter, stating that compulsory state pilots are not required to conduct a detailed inspection or investigation of a ship's navigation equipment. There are strong policy arguments in favor of the pilot not being perceived as a regulatory authority. The vessel completed its voyage safely, with no damage to persons, property, or the environment, and there was no evidence to support negligence or misconduct on the part of the Capt. Cloes.
- Under Title 7 of the California Code of Regulations, §210 (b)(3), if the IRC, upon initial investigation, finds that there is no pilot error, the Committee shall discontinue the investigation and report its findings to the Board. The IRC commenced an investigation into this event, reviewed and weighed the available evidence and came to the conclusion that there was clearly no pilot error.

Although the Committee discontinued the investigation, Executive Director Garfinkle stated the IRC identified several issues that were worthy of further discussion by the Board.

There does exist, in certain circumstances, a duty to report to VTS under federal regulations if there is a condition on board that is related to a vessel's ability to safely navigate. Capt. Cloes did not report, indicating that he may have felt the lack of charts did not have an impact on the safe navigation of the ship. The Committee felt this was an accurate but narrow interpretation of the law, and because these reporting interests not only serve the public interest in safety but also serve to build and maintain trust between mariners and the regulatory bodies, we encourage a broad interpretation of the reporting requirements.

This event also highlights the importance of the Master-Pilot information exchange (MPX). The MPX serves to build trust between the pilot and bridge crew, set transit expectations, and eliminate assumptions about what the master or pilot knows. It is during this exchange that a pilot begins to assess the ability of the ship's crew to perform their navigation duties. This event provides an opportunity to emphasize the independent role of a compulsory pilot as not being a member of the crew. He represents the state's interests. If the MPX leaves any doubt about the crew to perform their duties, the pilot is empowered to not proceed with the movement.

<b>Meeting Date:</b>  <b>September 24, 2015</b>	<b>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</b>  <b>BOARD MEETING MINUTES</b>	<b>Page 15 of 15</b>
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While the Committee concluded that this event was neither caused by a lack of effective bridge resources management (BRM), nor could it have been rectified by better BRM, the value that BRM can add was diminished by the lack of charts. The report also acknowledged that BRM effectiveness is plagued by implementation issues that exist industry-wide and significant work remains to be done in order to achieve the necessary cultural shift.

Vice President Connolly commended Executive Director Garfinkle on a very holistic report, and his thorough and balanced look at risk and risk mitigation. He also expressed concern that traditional navigation is losing favor in the maritime community with the advent of electronic navigation.

Captain Greig expressed a concern that pilots, in general, were being unfairly singled out to enforce requirements that rightfully belonged to the vessel's captain. Mr. Clack opined that some of the articles cited in the IRC report are academic in nature, that BRM applies to the bridge team which the pilot is not a member of, that there always needs to be good communication between the bridge team and the pilot, and the pilot must rely that deficiencies will be conveyed to him.

Commissioner Long requested that a copy of the statement from the IRC regarding the M/V ROOK be distributed to all pilots.

#### **24. Adjournment.**

**MOTION:** Commissioner Long moved end the meeting at 11:45. Commissioner Livingstone seconded the motion.

**VOTE:** YES: Johnston, Connolly, Livingstone, Long, Schmid and Schneider.  
NO: None.  
ABSTAIN: None.  
No: None.  
Abstain: None.

**ACTION:** The motion was approved.




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Allen Garfinkle, Executive Director