

<p>Meeting Date: August 25, 2016</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 13</p>
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Board Members Present

Jennifer Ferrera Schmid, President, Public Member
 Dave Connolly, Vice President, Public Member
 Captain Joe Long, Pilot Member
 Captain George Livingstone, Pilot Member
 Benjamin De Alba, Assistant Secretary for Rail and Ports,
 representing the Secretary of the California State Transportation Agency (CalSTA)

Board Members Absent

John Schneider, Wet Cargo Industry Member
 Vacant, Dry Cargo Industry Member
 Vacant, Public Member

Staff Present

Allen Garfinkle, Executive Director
 Roma Cristia-Plant, Assistant Director
 Dennis Eagan, Board Counsel
 Sigrid Hjelle, Office Technician

Public Present

Knute Michael Miller, Past Board President; Captain Pete McIsaac, Port Agent; Ray Paetzold, San Francisco Bar Pilots (SFBP) Business Director-General Counsel; Captain Dennis Plant, SFBP (Ret.); Captain Sam D’Aloisio, SFBP; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; Brigadier General Chester L. Ward, MD; Robert Kosnik, MD, School of Occupational Medicine at the University of California at San Francisco (UCSF); Dr. Alan Hobbs, San Jose State University Research Foundation; Rollie Caabay, State Lands Commission; Kevin Broyles and Paul Taylor, United States Coast Guard (USCG); Chad Culbertson, Chevron Shipping Company LLC; and Rex Clack, Esq.

OPEN MEETING

1. Call to Order and Roll Call –President Schmid

President Schmid called the meeting to order at 9:30 a.m. Assistant Director Cristia-Plant called the roll and confirmed a quorum.

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

Summary of informal discussions held on July 28, 2016, after the scheduled Board meeting on that date was cancelled due to lack of a quorum. (No action required.)

The Board acknowledged receipt of the summary of informal discussion held on July 28, 2016.

Board action to approve meeting minutes from the Board meetings held on June 14, 2016 and June 23, 2016.

Board members were presented with the minutes of the meeting held on June 14, 2016. There was no further discussion of the minutes and no public comment.

- MOTION: Vice President Connolly moved to approve the minutes of the meeting held on June 14, 2016. Commissioner Long seconded the motion.
- VOTE: YES: Schmid, Connolly, Livingstone and Long.
NO: None.
ABSTAIN: None.
- ACTION: The motion was approved.

Board members were presented with the minutes of the meeting held on June 23, 2016. There was no further discussion of the minutes and no public comment.

- MOTION: President Schmid moved to approve the minutes of the meeting held on June 23, 2016. Commissioner Livingstone seconded the motion.
- VOTE: YES: Schmid, Connolly, Livingstone and Long.
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 she attended a meeting to discuss the pilot fatigue study held at the San Francisco Bar Pilots’ office on August 23, 2016. She thanked all who were in attendance at the meeting, and also thanked everyone who had a hand in getting the study underway.

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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 announced that Polar Tankers was today conducting a simulated drill in the bay at Anchorage 9 with representatives of the USCG and oil spill prevention groups. He stated that approximately 150 people were involved in the exercise.

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

A) Correspondence and activities since the informal discussions held on July 28, 2016.

Executive Director Garfinkle reported on correspondence received by the Board since the Board’s July informal discussion as follows:

- On August 3, 2016, he attended a Women in Maritime Trades Panel at the Maritime Museum hosted by the San Francisco Maritime National Park Association. Speakers included: Captain Lynn Korwatch, Executive Director of the Marine Exchange and first woman to sail as master of a U.S. commercial ship; Tammie Lasiter, a California State University Maritime Academy (CSUM) graduate and a seventeen year veteran ship planner for SSA Marine Terminals; Captain Maggie McDonogh, owner of the Angel Island-Tiburon Ferry; and Karen Tynan, a former Chevron Chief Officer and currently a member of the California bar.
- On August 8, 2016, he attended a CalSTA Director’s meeting held at the State Library in Sacramento. The CalSTA directors were reminded of the prohibition from using state resources, including state email, for any campaign-related activities. He reported that State employees are free to participate in election campaign activities, but must be very careful to keep personal and professional activities separate.
- On August 15, 2016, Board staff received a letter of appreciation from Captain Roy Mathur, Wharf Master at the Shell Martinez refinery, expressing appreciation for the efforts of the San Francisco Bar Pilot dispatcher for arranging a pilot for a ship at their dock on short notice.
- On August 16, 2016, Board staff received a USCG Marine Safety Alert 10-16, titled, “Iron Mike will steer straight but you control your fate! Avoid Auto-Pilot Induced Casualties,” that addressed the safe navigation of vessels while operating with auto-pilot engaged.
- On August 17, 2016, Board staff received notice that Governor Brown signed Assembly Bill 1432 into law. He reported this bill will enable a four-year surcharge not to exceed \$1.2 million for the acquisition of pilot navigation technology. He acknowledged the efforts of the pilots and the shipping industry that resulted in a bill that will increase safety in the Board’s jurisdiction.

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- Also on August 17, 2016, he attended a Cyber Security Seminar held at California Maritime Academy MSSC Facility, Richmond and hosted by the Northern California Area Maritime Security Committee.
- On August 18, 2016, Board staff received a positive report from a pilot who had undergone an annual medical assessment at UCSF. He stated the pilot's comments included remarks that the entire medical evaluation process was a smooth and pleasant experience, and that the UCSF staff were very accommodating and willing to work with him on appointment scheduling.
- On August 19, 2016, the Board submitted a "Job Action Contingency Plan" to the California Department of Human Resources (CalHR). He reported the Plan will assist staff in continuing to provide essential services in the event of a labor action by unionized employees.

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

Executive Director Garfinkle reported the following pilot licensing matters:

- Between the June Board meeting and the July informal discussion, Board staff renewed the licenses of Captains Coney and Merritt.
- Since the July informal discussion, Board staff renewed the licenses of Captains Laakso and Burger.

C) Report on Board surcharges.

Executive Director Garfinkle reported the Board received a check from the SFBP for \$127,000.72 for the July 2016 surcharge revenues as follows:

- Board Operations Surcharge: \$74,544.72
- Pilot Continuing Education Surcharge: \$3,400.00
- Trainee Training Surcharge: \$49,056.00

D) Report on legislative activities and contractual matters.

Assistant Director Cristia-Plant reported the following legislative activities and contractual matters that occurred since the Board's July informal discussion:

- The \$1.2 million manned scale model training contract with Artelia Eau & Environment was completed on August 17, 2017. Pilots will be attending week-long training sessions, beginning August 29th and September 5th.
- A \$4,900 contract with Dr. Norman Hertz was completed on August 4, 2016. Dr. Hertz has since participated in a telephone conference with CalHR staff regarding the next Pilot Trainee Training Program selection examination.

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- The current contract with the SFBP expired on June 30, 2016. Board staff continues to work with contract staff at the California Highway Patrol on an interim emergency contract for the period of July 1, 2016 through December 31, 2016, which will give additional time for Board staff to work with the San Francisco Bar Pilots on a new 5-year contract.
- The current contract with the California Department of Transportation (Caltrans) for information technology services expired on June 30, 2016. Caltrans has agreed to a new \$45,000 3-year agreement. Work on the new contract has been delayed due to vacations of key staff at Caltrans. Staff anticipates that this contract will be finalized and approved within the next month.
- Board staff had started work on a contract for trainee random and incident drug testing since CalHR has a master agreement with a firm (CDT) to provide these services. Although contrary to initial discussions with CalHR, CalHR recently notified Board staff that it may not be able to provide drug testing services to non-state employees. CalHR is checking on this issue, and has yet to get back to Board.
- No work was done on a potential Pilot Pension Plan contract for CPA services since the last Board meeting. Staff prepared the July monthly pension allocation report for pension monies that were distributed earlier this month. Work on this contract will commence when other higher priority contracts are completed.
- As stated at prior meetings, CalPERS has confirmed that the Board can utilize one of the firms their pool of actuaries. Board staff will work with CalPERS upon direction from the Board to contract with an actuary.

There was no further discussion of the Executive Director or Assistant Director reports.

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

A) Monthly report on pilot availability and absences.

Port Agent McIsaac reported Captain Kelso has been absent for medical reasons since June 19, 2016, and that he was placed on medical disability status effective July 20, 2016. He also reported that Captain Kenyon has been not fit for duty since July 2, 2016, and that he was placed on medical disability status effective July 25, 2016.

Port Agent McIsaac reported the SFBP continually monitors the dispatch list for possible minimum rest period (MRP) exceptions, and if the potential exception is likely to result in a rest period of less than ten 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.

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- 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 August 17, 2016.**

PEC Chairman Captain Dowdle could not attend the Board meeting. Executive Director Garfinkle read Chairman Dowdle’s PEC report and stated the following:

- The Pilot Evaluation Committee met on August 17, 2016.
- All trainees were interviewed individually in closed session.
- The six current trainees include Captains Lowe, Rubino, Cvitanovic, Epperson, Alfery and Vogel.
- The trainees’ time in the program ranges from 5 to 21 months. One trainee was advanced to evaluation status.
- All trainees are continuing to progress and meet required benchmarks.
- The two most senior trainees will be attending the first class of manned model training at the end of this month.
- The PEC will meet next on September 14, 2016, at 0730.

Executive Director Garfinkle confirmed for Commissioner Connolly that there is only one trainee currently in evaluation status, and clarified that the one trainee that was previously in evaluation status is no longer in that status, and that another trainee was moved to the evaluation status phase of the training program this past month.

Executive Director Garfinkle also confirmed for Commissioner Long that work is proceeding with CalHR on the next Pilot Trainee Training Program selection examination, and that CalHR will begin working with the pilot subject matter experts on an update of the pilot job analysis in late September. He also confirmed that the next training program selection examination is scheduled to be held in June 2017, that staff typically starts advertising in January for a June examination, and that staff will update the Board’s website in the near future to alert candidates about the upcoming selection examination.

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- 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 that there was no safety standard violations to report on since the last meeting.

- 9. Reportable Piloting Events – Executive Director Garfinkle (Reports received between the issuance of this notice and the meeting will also be reported on.)**

Status report on the June 8, 2016, event involving an interaction of the M/V MORNING ORCHID with the M/V K WINNER at the Port of Stockton that resulted in gangway damage to the M/V K WINNER. Possible Board action to grant an extension to present the Incident Review Committee report on the event involving the interaction of the M/V MORNING ORCHID with the M/V K WINNER at the Port of Stockton that resulted in gangway damage to the M/V K WINNER at the September Board meeting. If an extension is requested it will be due to the investigation not being completed in time to present the report to the Board at this meeting.

Executive Director Garfinkel summarized the Incident Review Committee (IRC) timeline of events involving an interaction of the M/V MORNING ORCHID with the M/V K WINNER at the Port of Stockton that resulted in gangway damage to the M/V K WINNER. He

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reported that a response to his Freedom of Information Act request was recently received, and the IRC is still in the process of completing its report. He respectfully requested an extension to present the IRC report at the September Board meeting, which will be the 105th day since the event.

MOTION: Vice President Connolly moved to approve an extension of the presentation of the Investigation Review Committee report on the interaction of the M/V MORNING ORCHID with the M/V K WINNER at the Port of Stockton that resulted in gangway damage to the M/V K WINNER to the Board meeting on September 22, 2016. President Schmid seconded the motion.

VOTE: YES: Schmid, Connolly, Livingstone and Long.

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 July 2016, including those events
suspected to be due to low sulfur fuel issues.**

Executive Director Garfinkle reported that he typically obtains loss of propulsion/low sulfur fuel reports at the monthly Harbor Safety Committee meetings, and that the group did not meet in July. He stated that he intends to present the July and August loss of propulsion/low sulfur fuel reports to the Board at the September Board meeting.

11. Pilot Fitness Committee - Chairman Miller

A) Report on the Pilot Fitness Committee meeting held on August 25, 2016.

Pilot Fitness Committee (PFC) Chairman Miller announced that Barbara Price has resigned from the Committee on August 24, 2016, and cited her busy schedule as the reason. He thanked her for her valuable service to the Committee and the Board, especially throughout the updating of the pilot fitness regulations.

Chairman Miller gave a report on the pilot fatigue study meeting held on August 23, 2016, between representatives of the SFBP, Board staff and researchers from the SJSURF. Chairman Miller stated the group discussed various issues involving the study, including the study confidentiality and non-disclosure agreement that is required by the contract, and noted that this agreement has been reviewed by Board Counsel, but is not finalized yet. He reported that the researchers took a tour of the SFBP facility. He stated that Board staff and the Pilot Fitness Committee will provide ongoing oversight of the

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study, and will also provide the Board with periodic updates. Dr. Hobbs thanked Board staff and the SFBP for their hospitality and the wide-ranging discussion at the meeting.

B) Review, discuss, and possibly approve proposed amendment to the contract with San Jose State University Research Foundation (SJSURF) for the pilot fatigue study to modify study researcher staff and reallocate contract budget funds. Possible Board approval to amend the contract with the SJSURF for the pilot fatigue study to modify study researcher staff and reallocate contract budget funds.

Assistant Director Cristia-Plant summarized the written staff report for the Board regarding a request from Dr. Hobbs to amend the pilot fatigue study contract to eliminate one study researcher and to reallocate budgeted funds. She stated Dr. Hobbs notified Board staff that university rules prohibit the payment of an independent consultant who is not a resident of the United States (U.S.), and that unfortunately Captain Filor of the study team is not a U.S. resident. She stated that while Captain Filor was designated to assist with certain aspects of the study research, including the literature review and report writing tasks, Dr. Hobbs assured Board staff that he is confident that the research team can competently perform the study tasks that would have been assigned to Captain Filor without any change to the research plan. Additionally, she stated that Dr. Hobbs has requested to reallocate the small amount of contract funding that was allocated to Captain Filor to personnel costs for two other researchers, and to the purchase of a stand-alone, non-networked computer as reflected in the staff report.

Chairman Miller requested that the Board amend the contract with San Jose State University Research Foundation as discussed.

MOTION: Vice President Connolly moved to approve an amendment to the contract with the San Jose State University Research Foundation for the pilot fatigue study to modify the study researcher staff, and to reallocate contract budget funds to other researchers and the purchase of equipment. President Schmid seconded the motion.

VOTE: YES: Schmid, Connolly, Livingstone and Long.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

12. Rules and Regulations Committee – Commissioner Long

A) Report on the Rules and Regulations Committee meeting held on June 18, 2016.

Rules and Regulation Committee Chair Commissioner Long reported that the Committee met on June 19, 2016, and continued its discussion of developing regulations for trainee

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reinstatement after a resignation. He stated that the Committee is still working on the trainee reinstatement regulations, and that he will report back to the Board at a later date on future Committee efforts. He also reported that the Committee discussed the potential to transfer the contracting for ongoing pilot training to individual pilots or to the SFBP, and that this concept would need further research.

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

- a. **Section 211.5 – Commission Investigator Minimum Standards (amend minimum qualifications standards).**
- b. **Section 213 – Pilot Trainees (add exam fee and clean-up of regulations).**
- c. **Section 215 – Pilot and Inland Pilot Training (add fatigue management and radar navigation in low/restricted visibility training and clean-up).**
- d. **Section 218 – Duties of Port Agent (amend requirement for assignments of pilots with under 12 and 18 months experience).**
- e. **Section 222 – Conflicts of Interest (add Port Agent Conflict of Interest regulation).**

Executive Director Garfinkle reported that staff encountered delays in completing the omnibus rulemaking efforts involving Sections 211.5, 213, 215 and 218, due to the Department of Finance requesting an amendment to the rulemaking economic impact analysis. He reported that that economic impact analysis amendment was recently completed, and that he anticipated Board staff would complete the rulemaking paperwork and submit the completed package to the Office of Administrative Law (OAL) in the very near future. He stated that given OAL’s quarterly regulation effective date scheduling, it is likely the proposed regulations would not take effect until January 1, 2017.

He further reported that no Board staff work was completed on proposed regulatory amendments to Section 222 since the last Board meeting.

13. 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.

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Board Counsel Eagan stated that he had nothing to report other than the Board is waiting for the court to set a date for oral arguments in the Reeder appeal.

14. 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 reported that the Board and various committees have diligently focused focusing on safety for over the past two years, and summarized the Pilot Continuing Education Committee’s recent efforts to update the pilot continuing education combination course curriculum offered at CSUM to include topics involving the human element, navigating in low visibility/restricted waters conditions, and decision-making under duress. Commissioner Livingstone added that to have sufficient time to add new topics to the various training modules during combination course training, a decision has been made to delete the eight hours dedicated to first aid training from the week long course, and that pilots could obtain first aid training at another time, likely at the pilot office. He further commented that there will be an effort to add “knowledge centers,” which are training videos on specific topics that will introduce the element of surprise and decision-making to the training. He concluded by stating the Board is being proactive to update the combination course training to make it relevant and engaging, and that the goal of updating training will be to develop a premier bridge resource management training tool for Board-licensed pilots.

15. Incident Review Committee incident report on the June 8, 2016, event involving an interaction of the M/V MORNING ORCHID with the M/V K WINNER at the Port of Stockton - President Schmid

A presentation of the Incident Review Committee incident report concerning the June 8, 2016, event involving an interaction of the M/V MORNING ORCHID with the M/V K WINNER at the Port of Stockton that resulted in gangway damage to the M/V K WINNER. 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).

This item was not discussed as an extension to the Incident Review Committee report was granted under agenda item 9.

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16. Public comment on matters not on the agenda.

There was no public comment on matters not on the agenda.

17. Proposals for additions to next Board meeting agenda.

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

18. Adjournment.

President Schmid called for a motion to adjourn.

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

VOTE: YES: Schmid, Connolly, Livingstone and Long.

NO: None.

ABSTAIN: None.

ACTION: The motion was approved. The meeting was adjourned at 10:22 a.m.

Submitted by:



Allen Garfinkle, Executive Director