

<p>Meeting Date: October 26, 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 12</p>
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Board Members Present

Dave Connolly, Vice President, Public Member
 Captain George Livingstone, Pilot Member
 David Hoppes, Dry Cargo Industry Member
 Captain Einar Nyborg, Pilot Member
 John Schneider, Wet Cargo Industry Member
 Benjamin De Alba, Assistant Secretary for Rail and Ports, represented the Secretary of the California Transportation Agency

Board Members Absent

Jennifer Ferrera Schmid, President, Public Member
 Vacant, Public Member

Staff Present

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

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; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; and Rollie Caabay, State Lands Commission.

OPEN MEETING

1. Call to Order and Roll Call – Vice President Connolly

Vice President Connolly 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 – Vice President Connolly

Board action to approve meeting minutes from the Board meeting held on September 28, 2017.

Board members were presented the draft minutes from the meeting held September 28, 2017. Executive Director Garfinkle noted minor edits to the minutes requested by Mr. Paetzold. There was no further discussion by the Board or the public.

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- MOTION:** Commissioner Nyborg moved to approve the minutes of the meeting held on September 28, 2017, as amended. Commissioner Hoppes seconded the motion.
- VOTE:** YES: Connolly, Hoppes, Livingstone, Nyborg, and Schneider.
NO: None.
ABSTAIN: None.
- ACTION:** The motion was approved.

3. President Announcements and Activities – Vice President Connolly

There were no announcements.

4. Board Member Announcements and Activities – Board Members

There were no announcements.

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

A) Correspondence and activities since the Board meeting held on September 28, 2017.

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

- On October 2, 2017, he sent an email out to all BOPC licensees requesting that they complete the San Francisco Bar Pilot Fatigue Survey sent to them by the researchers from the San Jose State University Research Foundation and the NASA Ames Research Center, if they haven’t done so previously. He reported that the licensees had an opportunity to respond either in writing or online by a deadline of October 8, 2017. Also on October 2, he received a Public Records Act request from Scott Tilden, a paralegal working for the firm of McGuinn, Hillsman, and Palefsky on behalf of their client, pensioner Captain David Chapman.
- On October 11, 2017, he received an email from Trainee Captain Leigh McNamara, resigning his position from the Pilot Trainee Training Program, effective immediately. He added that Captain McNamara’s letter indicated that he considered it an honor to have had the opportunity to participate in the program.
- Also on October 11, 2017, Board staff received a subpoena from Jennifer M. Porter, of the firm Keesal, Young, and Logan, requesting employment records pertaining to the employment of David Chapman.
- On October 19, 2017, Board Counsel Eagan responded to Ms. Porter informing her that the Board licenses, but does not employ pilots.
- On October 20, 2017, Board staff received a copy of the PMSA *West Coast Trade Report* for October 2017. The report contains an overview of the August Loaded

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Twenty-foot equivalent (TEU) numbers for selected ports, and Jock O’Connell’s Commentary, entitled *The Pitfalls of Prophecy*, on the risk of long-term forecasting. There is also a bonus article authored by Mike Jacob, entitled *A Decade of No Growth and Lost Marketshare*. This article addresses the need to keep the west coast ports competitive.

- He reported that on October 15, 2017, pensioner Captain John Winterling passed away. He expressed his condolences to the family.

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 August and September Board meetings, staff renewed the licenses of Captains Merritt and Lesieur.
- Since the September Board meeting staff renewed the licenses of Captains Boriolo and Kleess.

C) Report on Board surcharges.

Executive Director Garfinkle reported that the Board received a check from the SFBP for \$93,404.84 for surcharge revenues for the month of September 2017 as follows:

- Board Operations Surcharge: \$ 52,172.34
- Continuing Education Surcharge: \$ 1,752.50
- Trainee Training Surcharge: \$ 39,480.00

Executive Director Garfinkle noted that monthly summary cash report and payment for the month of September 2017 only included cash applied for the period between September 1, 2017, and September 17, 2017, due to the absence of the SFBP’s Controller during the remainder of the month. He noted that remittances for pilotage fees received between of September 18, 2017, and through September 30, 2017, will be reflected in the October 2017 cash summary report and included in the October monthly payment.

D) Report on legislative activities and contractual matters.

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

- Board staff continue to work on the new 5-year sole source contract with the San Francisco Bar Pilots.
- Board staff has had several conference calls with the new contract analyst at the California Highway Patrol (CHP). Our new analyst is proceeding to complete the Invitation for Bid documents for new Commission Investigator contracts, and intends

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- to complete the procurement before the end of the year, when the current contracts expire.
- Board staff received notification from CalHR that their legal staff completed its analysis of whether the two entities could enter into an interagency agreement for trainee random drug testing under CalHR’s master drug testing contract, and that the Director of CalHR is currently reviewing the analysis.
 - Six interagency agreements have recently expired or will be expiring this fiscal year. The contracts are with the State Controller’s Office; two contracts with California Maritime Academy; the University of California, San Francisco Campus School of Occupational Medicine; California Department of Human Resources; and the California Highway Patrol. Staff has commenced working on contract renewals with the other governmental entities and the CHP.

Executive Director Garfinkle confirmed for Commissioner Livingstone that Board staff are working with the California Maritime Academy (CMA) on finalizing dates for the 2018 pilot continuing education combination course training schedule.

Executive Director Garfinkle confirmed for Vice President Connolly that the Pilot Fatigue Study pilot fatigue factors survey ended up with a 95% completion rate, with 56 out of 59 pilot submitting a completed survey.

Executive Director Garfinkle confirmed for Vice President Connolly that the Board is not a party to the lawsuit that Captain Chapman has filed for injuries he received providing pilotage services, and that the Board has received Public Records Act (PRA) requests from attorneys on both sides of the lawsuit. He further stated that the Board Counsel clarified in a response to one of the PRA requests that the Board does not have Captain Chapman’s employment records, since the Board does not employ pilots.

6. Port Agent’s Report – Captain Joseph Long

A) Monthly report on San Francisco Bar Pilots (SFBP) pilot availability and absences.

As of October 26, 2017, Port Agent Long reported that Captain Pinetti has been not fit for duty since February 27, 2017, and that Captain Dowdle has been absent for medical reasons since September 23, 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 the mitigating measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings, cancelling

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previously granted compensating time off requests, suspending SFBP internal working rules, or calling in off-watch pilots.

He reported that there are currently 59 licensed pilots. He reported that there were 17 MRP exceptions in September, and that the shortest rest period was recorded at 4.7 hours, but the actual rest period was 8.5 hours due to the pilot staying aboard a ship in Stockton after an arrival, rather than returning to the pilot office in between jobs.”

B) Monthly report on SFBP ship piloting business activity.

Port Agent Long reported following:

- The P/V GOLDEN GATE was out of service from October 4-6, 2017, for repairs in dry dock to the portside rudder quadrant.
- The P/V SAN FRANCISCO was out of service September 8-12, 2017, for repairs to the generator and starboard main engine.

Port Agent Long Reported the billed vessel moves for September 2017:

- Bar Crossings: 589 Moves
- Bay Moves: 131 Moves
- River Moves: 49 Moves
- Total Moves: 769 Moves
- Gross Registered Tons (GRT): 34 Million

He also reported that when comparing 2017 year-to-date vessel moves and GRT data with the same nine month period in 2016, total moves were up 3.79% and GRT was down 0.5%.

Port Agent Long confirmed for Vice President Connolly that the SFBP is committed to the peer review program, and that peer reviews are ongoing.

C) Monthly confidential written report of SFBP 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.

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7. Pilot Evaluation Committee – Captain George Dowdle

A) Report on the Pilot Evaluation Committee (PEC) meeting held on October 18, 2017.

PEC Chairman Captain Dowdle was not in attendance. Executive Director Garfinkle read the report that Captain Dowdle submitted, and reported the following:

- The PEC met on October 18, 2017.
- All Trainees were interviewed individually in closed session.
- The five current trainees include: Captains Vogel, Greger, Burchard, Freese and Pullin. Their time in the program ranges from 2 to 19 months.
- The newest trainees are accumulating trips, continuing to test for their federal pilotage endorsements, and starting to handle ships in areas they hold federal endorsements.
- There is one trainee in evaluation status.
- All trainees are meeting required benchmarks.
- The PEC will meet next November 8, 2017.

Captain Dowdle reported that Captain Leigh McNamara resigned from the Pilot Trainee Training Program effective October 11, 2017. He stated Captain McNamara was thankful for the opportunity of being part of the 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 was no discussion or recommendation.

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 was no discussion or recommendation.

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 was no discussion or recommendation.

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**8. Reported Safety Standard Violations – Executive Director Garfinkle
(Reported safety standard violations occurring up to the start of the meeting will be reported on.)**

Executive Director Garfinkle stated there was nothing to report.

**9. Reportable Piloting Events – Executive Director Garfinkle
(Reportable piloting events occurring up to the start of the meeting will be reported on.)**

A) Progress report of an event involving the M/V KAI XAUN whip antenna contact with the Benicia-Martinez Union Pacific Railroad Bridge on an outbound transit from New York Point to Sea on July 30, 2017.

Executive Director Garfinkle reported that on July 30, 2017, while outbound to sea, the M/V KAI XAUN made contact with the Martinez-Benicia Union Pacific Railroad Bridge with a fiberglass whip antenna. He reported that M/V KAI XUAN is equipped with a foldable mast, and that the pilot, Captain Donald Cloes, confirmed with the master that the mast was lowered, and that the air draft listed on the pilot card was correct.

He reported that an investigation following the contact, conducted by the ship’s Chief Officer, did not reveal any damage, and that the officer reported that the medium frequency – high frequency flexible whip antenna was approximately one meter higher than the folded mast. Executive Director Garfinkle reported that the United States Coast Guard (USCG) was notified about the information on the fiberglass whip antenna, and that the ship was allowed to continue to sea.

He reported that based on this evidence, the Investigation Review Committee (IRC) determined that there was clearly no pilot error, and discontinued the investigation.

Commissioner Livingstone requested this item be referred to the Pilot Safety Committee.

B) Initial report of an event involving the M/V SALDANHA making unintended contact with the pier structure at the Port of Stockton, Berth 12/13 on September 13, 2017.

Executive Director Garfinkle reported that on September 13, 2017, the M/V SALDANHA made contact with the pier while approaching the berth at the Port of Stockton, berth 12/13. He reported that the investigation so far has revealed no major structural damage to the walkway, cleats or pilings was evident, but that some wooden members under the pier were dislocated and may require replacement. He reported that the 90-day statutory limit is December 12, 2017, that the investigation is ongoing, and that no Board action is required at this time.

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C) Initial report of an event involving the M/V PRABHU SAKHAWAT making unintended contact with the pier at the Port of Richmond, Berth 21 on October 8, 2017.

Executive Director Garfinkle reported that on October 8, 2017, while departing the berth at the Port of Richmond, Berth 21 (Levin’s Terminal), the M/V PRABHU SAKHAWAT made unintended contact with the pier. He reported that apparently the ship compressed a Yokohama fender while departing, and the pilot thought that the counter of the stern had made contact with the pier. He noted that a representative at Levin’s stated that the pier and fendering were inspected by an experienced marine contractor and no damage that can be linked to the handling of the vessel was found, and that no formal report will be prepared. Executive Director Garfinkle reported that there was no damage to the ship, and on the basis of the pilot statement and the report from the representative at Levin’s, the IRC concluded that there was clearly no pilot error and discontinued the investigation.

Executive Director Garfinkle confirmed for Commissioner Nyborg that the IRC reviews every incident regardless of damage amount, as there may be a potential for pilot error. Board Counsel Eagan added that an incident is not dependent on damage, and cited a near miss example that, upon investigation, was determined to involve pilot error. Port Agent Long commented that the incident reporting requirements are rather broad and that, as Port Agent, he tends to err on the side of caution when reporting incidents or suspected incidents.

**10. Loss of Propulsion/Low Sulfur Fuel Report – Executive Director Garfinkle
Report on loss of propulsion events arising in September, 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 according to the USCG’s San Francisco Harbor Safety Statistics report for September 2017, there was one loss of propulsion incident that month, and it was not attributed to fuel switching.

**11. Navigation Technology Equipment and Software Acquisition Update – SFBP Business Director-General Counsel Paetzold
Status report on the SFBP’s navigation technology equipment and software implementation.**

Mr. Paetzold reported that the newly acquired precision docking system and the enhanced route piloting systems are in service and performing well. He reported that, as of September 30, 2017, a total of about \$89,000 had been billed as Navigational Technology Surcharge at the current rate of \$40/move, and about \$19,000 had been paid in loan fees and interest on the separate navigation technology equipment line of credit.

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12. Fee and Surcharge Recovery Actions Involving Hanjin Shipping Company – SFBP Business Director-General Counsel Paetzold
Status report on the SFBP’s fee and surcharge recovery actions involving pilotage services provided to vessels operated by Hanjin Shipping Company.

Mr. Paetzold stated there was nothing new to report.

13. Pilot Power Committee – Commissioner Livingstone

A) Report on the Pilot Power Committee meeting held on October 24, 2017.

Pilot Power Committee Chairman Commissioner Livingstone reported that the Committee met on October 24, 2017, and reviewed and discussed the June 2017 Pilot Retirement survey and forecasted SFBP retirement rates. He reported that there is an expectation that there will be 60 licensed pilots by the end of the year, that there currently are 5 trainees in the program, the next trainee is likely to graduate by the end of the year, and the next graduation after that is expected by about mid-2018. He concluded that given the expected pilot retirements, the number of licensed pilots may dip in early 2019.

B) Possible recommendation from the Pilot Power Committee to the Board to direct Board staff to commence contracting with one or more additional applicants for entry into the Pilot Trainee Training Program. Possible Board action to direct staff to commence contracting with one or more applicants for entry into the Pilot Trainee Training Program.

Committee Chairman Commissioner Livingstone reported that the Committee recommends the Board direct staff to contract with two new trainees immediately, and with another two trainees just after the first of the year. Executive Director Garfinkle reminded the Board that there currently are 8 trainees on the eligibility list, and that the program start date for any new trainee is contingent upon the trainee completing all of the program prerequisites, including a fitness determination. Commissioner Nyborg confirmed for Commissioner Hoppes that the PEC has the capacity to train up to 8 trainees in the Pilot Trainee Training Program. He also stated that it is beneficial for the PEC to have trainees stagger their start times in the program.

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MOTION: Commissioner Livingstone moved that the Board direct staff to commence contracting with the next two qualified trainees on the Pilot Trainee Training Program eligibility list as soon as possible, and contract with the next two qualified trainees on the list as soon as practicable after January 1, 2018. Commissioner Schneider seconded the motion.

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

ACTION: The motion was approved.

14. 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.

Executive Director Garfinkle reported the following pilot fatigue study updates from information received from Dr. Hobbs:

- Pilot fatigue factors survey was closed to new responses at midnight October 8, 2017.
- Out of 59 surveys distributed, 56 were returned, representing a response rate of 95%, which is considered an excellent response rate. Of the completed surveys, 18 were completed on-line, and 38 were returned by mail.
- Survey data entry is underway and will be completed in the near future. Data analysis is scheduled to commence in late November 2017.
- The SAFTE-FAST model is being used to analyze the pilot dispatch data that was made available to the researchers, which included data on over 1,500 on-call periods.
- The pilot dispatch data analysis will identify specific work periods that may be associated with a predicted elevated level of fatigue, given the model's assumptions and limitations.
- Over the next month, the identified work periods will be examined to identify generalizable scheduling patterns that may be undesirable.
- On October 4, 2017, Dr. Flynn-Evans provided a briefing to the San Francisco Bar Pilots on the proposed objective monitoring phase of the study.
- The researchers intend to determine in November whether a sufficient number of pilots would participate in objective monitoring.
- The researchers continue to review fatigue guidelines in maritime and related industries.
- The researchers continue to analyze the results of their analysis of pilot job tasks.

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15. 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 maritime safety policies and procedures.

Commissioner Livingstone provided a brief report on recent updates to the pilot continuing education combination course conducted by CMA in September. He stated the 5+-day course materials were completely updated, and that the training topics were inclusive of the requirements resulting from the OVERSEAS REYMAR incident. He stated the updated course received much positive feedback from pilots. Commissioner Nyborg concurred. He noted the resources available to pilots are phenomenal, and that a critical maritime incident can result in good changes in the maritime industry.

Commissioner Livingstone stated the next Pilot Safety Committee meeting is scheduled for December 12, 2017.

17. Public comment on matters not on the agenda.

There were no comments from the public.

18. Proposals for the next Board meeting agenda.

There were no additional proposals for the next Board meeting agenda.

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19. Adjournment.

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

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

ACTION: The motion was approved. The meeting was adjourned at 11:06 p.m.

Submitted by:



Allen Garfinkle, Executive Director