

<p><b>Meeting Date:</b> <b>November 16, 2017</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 12</b></p>
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**Board Members Present**

Jennifer Ferrera Schmid, President, Public Member  
 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**

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**

Captain Joseph Long, Port Agent and San Francisco Bar Pilots (SFBP) President; Ray Paetzold SFBP Business Director-General Counsel; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; Captains George Dowdle and Steven Teague, SFBP Members; and Captain Kevin Freese, Pilot Trainee.

**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 October 26, 2017.**

Board members were presented the draft minutes from the meeting held on October 26, 2017. Vice President Connolly and Port Agent Long requested minor edits to the minutes.

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- MOTION:** Commissioner Livingstone moved to approve the draft minutes of the meeting held on October 26, 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. President Announcements and Activities – President Schmid**

There were no announcements.

### **4. Board Member Announcements and Activities – Board Members**

Commissioner Livingstone announced that members of the SFBP met with members of the United States Coast Guard (USCG) and discussed a broad range of topics, including pilot transfer arrangements and vessel air draft concerns. He stated the SFBP will continue to work with the USCG on these issues.

Commissioner Hoppes announced that on November 2, 2017, he attended a joint meeting held by the Board of Harbor Commissioners of the Cities of Long Beach and Los Angeles at which both boards unanimously approved an update to Clean Air Action Plan that included a goal of transitioning to a zero emissions ground fleet by 2035. He stated the meeting was well attended, and that a variety of objectives were discussed and solutions were presented.

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

#### **A) Correspondence and activities since the Board meeting held on October 26, 2017.**

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

- On October 27, 2017, he received two articles from Vice President Connolly. One was published by Transport Topics, entitled, “*Peak Shipping Season Red-Hot at Container Ports: East and Gulf Coasts on Pace to Surpass 2016 Levels.*” The second article was a British Marine Accident Investigation Branch (MAIB) accident report on the grounding of the ultra-large container vessel CMA CGM VASCO de GAMA in Thorn Channel, Southampton, England on August 22, 2016. He reported the conclusion of the MAIB investigators was that complacency and a degree of over-confidence on the part of the master and port pilots contributed to the accident.
- On November 2, 2017, he received an Incident Report and Findings from International Seaways, Inc. addressing the deficient pilot boarding equipment incident on the

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SEAWAYS LUZON. He stated the report also included preventative and corrective actions.

- On November 8, 2017, he received a copy of an article authored by Commissioner Livingstone entitled, “*Ships: A Risky Business*,” with subtitles of Managing Risk, Inherent Risk, and Practice Makes Perfect.
- On November 15, 2017, he received a report from Vice President Connolly entitled “*National Strategy for the Marine Transportation System: Channeling the Maritime Advantage 2017-2022*,” published by the U.S. Committee on the Maritime Transportation System.

On November 15, 2017, the Board received an invitation to the 2017 All Flags Holiday Reception to be held on Yerba Buena Island, on December 2, 2017.

**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 September and October Board meetings, staff renewed the licenses of Captains Boriolo and Kleess.
- There were no license renewals since the October Board meeting.

**C) Report on Board surcharges.**

Executive Director Garfinkle reported that the Board received a check from the SFBP for \$336,840.51 for surcharge revenues for the month of October 2017 as follows:

- Board Operations Surcharge: \$ 174,115.51
- Continuing Education Surcharge: \$ 5,825.00
- Trainee Training Surcharge: \$ 156,900.00

**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 have submitted a final draft of the 5-year sole source contract with the San Francisco Bar Pilots, along with the non-competitive bid justification to California Highway Patrol (CHP) for review.
- The Board’s contract analyst at CHP has nearly completed preparing the Invitation for Bid document for new Commission Investigator contracts. The bid document should be issued in the near future.
- Board staff have scheduled a call with legal counsel at the California Department of Human Resources (CalHR), to discuss CalHR’s final determination of whether the two entities can enter into an interagency agreement for trainee random drug testing under CalHR’s master drug testing contract.

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- Board staff held a discussion with CalHR’s staff regarding performance and best practices for the Pilot Trainee Training Program Selection Examination. CalHR staff recommended a few suggestions to ensure the next examination is even smoother and more efficiently. CalHR staff are working on a budget for the next interagency agreement.
- Board staff have begun work on renewing the interagency agreement with several other state entities, including the State Controller’s Office, the California Maritime Academy, and The Regents of the University of California, on behalf of the San Francisco Campus. Additionally, an interagency agreement with California Highway Patrol will also need to be renewed prior to the end of the fiscal year.
- Once the SFBP and Commission Investigator contracts are complete, Board staff intend to work with CHP staff to procure a Pilot Pension Plan Actuary and contracts for pension plan calculations and disbursement.

Assistant Director Cristia-Plant confirmed for President Schmid that revised duty statements for the Board’s Office Technician and Staff Services Analyst positions were submitted to CHP for review. Mr. Jacob commented that it has not been a quick process for the Board to contract for an actuarial study of the San Francisco Bar Pilot Pension Plan, and noted that it has been approximately two years since PMSA requested the update.

## **6. Port Agent’s Report – Captain Joseph Long**

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

Port Agent Long reported that Captain Pinetti has been not fit for duty since February 27, 2017, that Captain Dowdle has been not fit for duty since September 23, 2017, Captain Laakso has been not fit for duty since October 29, 2017, and that Captain Lemke has been absent for medical reasons since November 15, 2017.

Port Agent Long reported that 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 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 39 MRP exceptions in October, and that the shortest rest period was 8.1 hours. Additionally, he confirmed for President Schmid that various reasons, such as, but not limited to, a high number of Monterey Bay pilot assignments, pilots attending the pilot continuing education

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combination course conducted by CMA, and overall October being the busiest month of the year, contributed to the number of MRP exceptions.

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

Port Agent Long reported that there were no pilot vessel dry dockings in the month of October and that all equipment is operating normally.

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

- Bar Crossings: 599 Moves
- Bay Moves: 145 Moves
- River Moves: 50 Moves
- Total Moves: 794 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 ten-month period in 2016, total moves were up 4.73% and GRT was down 0.6%.

Port Agent Long reported that there was one peer review conducted in the month of October.

**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.

**7. Pilot Evaluation Committee – Captain George Dowdle**

**A) Report on the Pilot Evaluation Committee (PEC) meeting held on November 8, 2017.**

PEC Chairman Captain Dowdle reported the following:

- The PEC met on November 8, 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 3 to 20 months.
- There is one trainee in evaluation status.

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- The Board’s newest trainees, Captains Maximilian Starnitzky and David Corbett, attended an orientation meeting on November 14, 2017. They are scheduled to commence the Pilot Trainee Training Program on December 1, 2017.
- All trainees are meeting required benchmarks.
- The PEC will next meet on December 6, 2017.

**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.**

Captain Dowdle reported that the PEC completed its final assessment of trainee Captain Jason Vogel at its meeting on November 8, 2017, and determined that Captain Vogel successfully completed all elements of section 214(c) and (h) of the Pilot Trainee Training Program requirements listed in the Board’s regulations. Captain Dowdle providing the following information:

- Captain Vogel completed a total of 591 training jobs, of which 157 were as an observer and 434 were handled or partially handled, directing the navigation and control of the vessel under the direct supervision of a pilot.
- Captain Vogel acquired 85 jobs with PEC members, of which 22 were within the past 90 days.
- As required by regulation, Captain Vogel has maintained an average PEC evaluation score of 4.0 or greater in each of the last 3 months, resulting in a 3-month average score of 4.58.
- The PEC has determined that Captain Vogel has successfully completed the Pilot Trainee Training Program, and recommended that the Board issue Captain Vogel a Certificate of Completion from the program, effective November 16, 2017.

Executive Director Garfinkle confirmed for the Board that Captain Vogel has completed all of the Pilot Trainee Training Program requirements. There was no further discussion or comments from the Board or the public.

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**MOTION:** President Schmid moved to award Captain Jason Vogel a Pilot Trainee Training Program Certificate of Completion. Vice President Connolly seconded the motion

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

**ACTION:** The motion was approved.

**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.**

Executive Director Garfinkle reported to the Board that he has received an application for licensing from Captain Jason Vogel and that all requirements for licensing have been met. He recommended to the Board that a license be issued to Captain Vogel. There was no further discussion or comments from the Board or the public.

**MOTION:** Commissioner Nyborg moved that the Board issue a license to Captain Jason Vogel. Vice President Connolly seconded the motion

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

**ACTION:** The motion was approved.

President Schmid called for a recess to administer the oath of office with Captain Vogel.

**RECESS BEGAN:** 10:05 a.m.

**OPEN SESSION RESUMED:** 10:20 a.m.

**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 SALDANHA making unintended contact with the pier structure at the Port of Stockton, Berth 12/13 on September 13,**

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**2017. Possible Board action to grant the Incident Review Committee an extension to present the M/V SALDANHA report at the Board meeting to be held on December 14, 2017. If an extension is sought it will be due to an incomplete investigation.**

Executive Director Garfinkle reported that the M/V SALDANHA made contact with the pier while approaching the berth at the Port of Stockton, berth 12/13 on September 13, 2017. He reported that the investigation so far has revealed no major structural damage evident to the walkway, cleats or pilings, 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, and that Incident Review Committee (IRC) is requesting an extension to present its report at the December 14, 2017, Board meeting, as the investigation is not yet complete.

**MOTION:** President Schmid moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V SALDANHA event at the December 2017 Board meeting. Commissioner Hoppes seconded the motion.

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

**ACTION:** The motion was approved.

Executive Director then reported two events that he recently became aware of, stating that on July 21, 2017, while outbound from the Port of Stockton, the M/V SHELIA ANN made contact with the bottom, in the vicinity of Ward Cut. He reported that the pilot was able to free the vessel by the use of the vessel's power alone and the ship continued to New York Point and eventually to sea. He stated this incident was first reported to him on November 11, 2017, that the 90-day statutory limit was October 18, 2017, and that the IRC requests an extension to present this report at the December Board meeting, as the investigation is not yet complete.

**MOTION:** Commissioner Livingstone moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V SHELIA ANN event at the December 2017 Board meeting. Commissioner Nyborg 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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The second event occurred on October 23, 2017, and involved a barge breaking loose from its mooring at the west end of the port following a transit of the M/V LEONORA VICTORY into the Port of Stockton. He reported that the statutory 90-day statutory limit is January 20, 2018, that no Board action is necessary at this time, and that the investigation has commenced.

**10. Loss of Propulsion/Low Sulfur Fuel Report – Executive Director Garfinkle  
Report on loss of propulsion events arising in October 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 October 2017, there was one loss of propulsion incident and two partial loss of propulsion incidents that month, and that none of the incidents were 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 Navigation Technology Surcharge is generating an average of \$27,000 monthly. He reported that the SFBP will provide detailed surcharge income and updated expenditure figures to the Board’s Finance Committee at the Committee’s next meeting scheduled to be held December 5, 2017.

**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 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 reported the following pilot fatigue study updates from information received from Dr. Hobbs:

- Data entry from the September pilot fatigue factors survey has been completed and analysis of the data has commenced.
- The analysis of SFBP’s dispatch records with the SAFTE-FAST model continues.

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- Following an October briefing to the SFBP on the proposed objective monitoring phase of the study, Dr. Flynn-Evans is preparing a request for participation from which the researchers will ascertain if there is sufficient participation in this study component.
- A preliminary summary of existing fatigue management guidelines in maritime and related industries has been completed. The preliminary study includes information on hours-of-service limits for maritime pilots in other regions of the United States.

Assistant Director Cristia-Plant explained to Commissioner Hoppes that the objective monitoring phase of the study could involve the participating pilots wearing activity monitors and psychomotor vigilance testing. She stated that although the researchers would like to perform the objective monitoring phase of the study, the study proposal accepted by the Board indicated that the study can be completed without any objective monitoring. Port Agent Long commented that the objective monitoring phase has been a sensitive component since the initiation of the study, and that he had no estimation of the number of pilots interested in participating in objective monitoring.

#### **14. 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.**

Vice President Connolly commended the SFBP for facilitating discussions with the USCG and entertained the idea of the Board inviting USCG personnel to a future Pilot Safety Committee meeting. He also commented that the stakeholders, including the Board, members of the Harbor Safety Committee, and the USCG, should discuss and formulate resolutions to pilot ladder, antenna/air draft and other safety issues at upcoming Pilot Safety Committee meetings.

Vice President Connolly also commended Commissioner Livingstone for his latest gCaptain publication entitled, “*Ships: A Risky Business.*” He described the safety progression from the recognition of risk to the mitigation of risk within the maritime industry and inquired if the Port Agent’s peer review system combined with the acquisition of new navigation technology, and new pilot training course curriculum is representative of a new safety approach system practiced by the SFBP and supported by the Board and the State Legislature. Commissioner

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Livingstone stated that risk is inherent to maritime industry, that risk should meaningfully be mitigated, and noted that the combined efforts of the Commission and the SFBP have resulted in a complete rework of SFBP safety procedures.

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

There were no comments from the public.

**18. Proposals for the next Board meeting agenda.**

President Schmid requested that the status of the pilot medical assessments be included on the next Board meeting Agenda. Port Agent Long confirmed for President Schmid that the Board's Pilot Fitness Committee is scheduled to meet on December 5, 2017, to discuss this issue, and an outstanding concern of his related to the lack of physician availability.

There were no further discussions or proposals for the next Board meeting agenda.

**15. Litigation Regarding Pension Payments of Capt. James Nolan – Board Counsel Eagan**  
**A dispute exists concerning entitlement to a portion of the pension payments of Captain James Nolan, a retired pilot. It is likely that resolution of the dispute will involve litigation. The Board may go into closed session to discuss with Board Counsel any matters subject to the attorney-client privilege, in accordance with the Bagley-Keene Open Meeting Act, Government Code section 11126(e).**

President Schmid called for a closed session to discuss this agenda item.

**CLOSED SESSION BEGAN:**  
**OPEN SESSION RESUMED:**

**10:47 A.M**  
**11:05 A.M**

There was no report out of the closed session.

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**19. Adjournment.**

**MOTION:** President Schmid moved to adjourn the meeting. Commissioner Schneider 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 11:05 A.M.

Submitted by:



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Allen Garfinkle, Executive Director