

<p><b>Meeting Date:</b> <b>December 14, 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 14</b></p>
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**Board Members Present**

Jennifer Ferrera Schmid, 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

**Board Members Absent**

Dave Connolly, Vice President, Public Member  
 Brian P. Kelly, Secretary, California State Transportation Agency (CalSTA), ex officio member  
 Vacant, Public Member

**Staff Present**

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 Pilots (SFBP) President; Ray Paetzold SFBP Business Director-General Counsel; Gerald Swanson, Pacific Maritime Association; and Captain David McCloy, San Francisco Bar Pilot.

**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  
 November 16, 2017.**

Board members were presented the draft minutes from the meeting held November 16, 2017. Commissioner Nyborg requested a minor edit to the minutes.

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**MOTION:** Commissioner Hoppes moved to approve the draft minutes of the meeting held on November 16, 2017, as amended. Commissioner Schneider seconded the motion.

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

**ACTION:** The motion was approved.

### **3. President Announcements and Activities – President Schmid**

President Schmid announced that ex officio Board member, Benjamin De Alba, delegate for CalSTA Secretary Brian Kelly, has a new job with the Air Resources Board. She stated his final day with the California State Transportation Agency was December 10, 2017. She thanked Mr. De Alba for his excellent service to the Board.

### **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 November 16, 2017.**

Assistant Director Cristia-Plant reported that Executive Director Garfinkle was absent, and that he would present correspondence and activities since the November Board at the January 2018 Board meeting.

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

Assistant Director Cristia-Plant reported on the following pilot licensing matters:

- Between the October and November Board meetings, staff did not renew any licenses.
- Since the November Board meeting, staff renewed the licenses of Captains Lowe and Favro.

#### **C) Report on Board surcharges.**

Assistant Director Cristia-Plant reported that the Board received a check from the SFBP for \$194,218.51 for surcharge revenues for the month of November 2017, itemized as follows:

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- Board Operations Surcharge: \$ 108,443.51
- Trainee Training Surcharge: \$ 82,280.00
- Continuing Education Surcharge: \$ 3,495.00

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

Assistant Director Cristia-Plant stated there was no legislative activity to report. She reported the following contractual matters:

- Board staff submitted a final draft of the 5-year sole source contract with the SFBP, along with the non-competitive bid justification to the California Transportation Agency Secretary for review and approval earlier this month. Upon approval, the paperwork will be sent to the legal staff at the Department of General Services for final review and approval.
- The California Highway Patrol (CHP) contract staff determined that a new 5-year non-competitive bid contract cannot be completed this month, and recommended entering into another 6-month emergency contract with the SFBP. CHP contract staff are working on the new SFBP emergency contract, and expect to have it in place before the end of the month.
- CHP contract staff determined that new Commission Investigator contracts will not be completed by the end of the month, and project that new contracts can be in place by the end of next quarter. In the interim, CHP contract staff proposed the Board enter into an emergency contract with one of the current Commission Investigators for each maritime incident that requires an investigator until the procurement for new Commission Investigators is completed.
- Legal counsel at the California Department of Human Resources (CalHR) confirmed that they are still working on a determination of whether or not the two entities can enter into an interagency agreement for trainee random drug testing under CalHR's master drug testing contract.
- In late November, CalHR's Selections Services Program staff submitted a cost proposal for the next Pilot Trainee Training Program selection examination, tentatively scheduled for June 2019. Board staff will work on finalizing a new interagency agreement with CalHR next quarter.

**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, and that Captain Lemke has not been fit for duty since November 15, 2017.

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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 60 licensed pilots. He reported that there were 8 MRP exceptions in November, and that the shortest rest period was 10.3 hours.

**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 November and that all equipment is operating normally.

Port Agent Long reported the billed vessel moves for November 2017 as follows:

- Bar Crossings: 553 Moves
- Bay Moves: 130 Moves
- River Moves: 54 Moves
- Total Moves: 737 Moves
- Gross Registered Tons (GRT): 30.8 Million

He also reported that when comparing 2017 year-to-date vessel moves and GRT data with the same eleven-month period in 2016, total moves were up 5.2% and GRT was up 1.1%.

Port Agent Long confirmed for President Schmid that the SFBP's under keel clearance (UKC) study is not yet complete, and that the report is expected to be completed in the near future. Commissioner Livingstone commented that the study's scientific findings and data appear to be supporting the SFBP's current operational guidelines for bar crossings in severe weather.

**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 December 6, 2017.**

PEC Chairman Captain Dowdle was unable to attend the meeting. Commissioner Nyborg read Captain Dowdle’s submitted written report and reported the following:

- The PEC met on December 6, 2017.
- All trainees were interviewed individually in closed session.
- The six current trainees include: Captains Greger, Burchard, Freese, Pullin, Starnitzky, and Corbett. Their time in the program ranges from 1 to 10 months.
- The newest trainees are collecting trips, continuing to test for federal pilotage endorsements, and beginning to handle ships in areas where federal pilotage endorsements have already been attained.
- All trainees are meeting required benchmarks.
- Two new trainees, Captains Christopher Pyne Mercier and Casey Crowl will attend an orientation meeting and start training in January 2018.
- The PEC will next meet on January 17, 2018.

Mr. Miller noted that there has been up to 13 trainees at one time in the past, and that he thought such a high number of trainees in the program tested the limitations of the PEC and the pilots.

**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.

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**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.

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

Assistant Director Cristia-Plant 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, 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 January 25 2019. If an extension is sought, it will be due to the report on the investigation not being fully prepared.**

President Schmid reported that this incident is under investigation, and the Incident Review Committee (IRC) report is not yet complete due to insufficient staff time. She stated the IRC is requesting an extension to present its report at the January 2018 Board meeting.

**MOTION:** Commissioner Livingstone moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V SALDANHA event at the January 25, 2018, Board meeting. Commissioner Nyborg seconded the motion.

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

ABSTAIN: Schmid.

**ACTION:** The motion was approved.

**B) Progress report of an event involving the M/V SHEILA ANN making contact with the bottom in the vicinity of Ward Cut on July 21, 2017. Possible Board action to grant the Incident Review Committee and extension to present the M/V SHEILA ANN report at the Board meeting to be held on January 25, 2018. If an extension is**

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**sought, it will be due to the investigation being incomplete at the time of the meeting.**

President Schmid stated this incident was first reported to the IRC on November 11, 2017; however, the 90-day statutory limit was October 18, 2017. She reported that this incident is under investigation, and the IRC report is not yet complete due to insufficient staff time. She stated the IRC is requesting an extension to present its report at the January 2018 Board meeting.

**MOTION:** Commissioner Schneider 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 January 25, 2018, Board meeting. Commissioner Hoppes seconded the motion.

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

ABSTAIN: Schmid

**ACTION:** The motion was approved.

**C) Progress report of an event involving possible interaction of the M/V LEONORA VICTORY with a barge moored at the Port of Stockton on October 23, 2017. Possible Board action to grant the Incident Review Committee an extension to present the M/V LEONORA VICTORY report at the Board meeting to be held on January 25, 2018. If an extension is sought, it will be due to the investigation being incomplete at the time of the meeting.**

President Schmid reported that this incident is under investigation, and the IRC report is not yet complete due to insufficient staff time. She stated the IRC is requesting an extension to present its report at the January 2018 Board meeting.

**MOTION:** Commissioner Nyborg moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V LEONORA VICTORY event at the January 25, 2018, Board meeting. Commissioner Livingstone seconded the motion.

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

ABSTAIN: Schmid

**ACTION:** The motion was approved.

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**10. Loss of Propulsion/Low Sulfur Fuel Report – Executive Director Garfinkle**

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

Assistant Director Cristia-Plant reported that Executive Director Garfinkle will report on the November 2017 loss of propulsion events at the January Board meeting.

**11. Finance Committee – Commissioner Hoppes**

**A) Report on the Finance Committee meeting held on December 5, 2017.**

Finance Committee Chairman Hoppes reported that the Finance Committee met on December 5, 2017, and reviewed the Board’s fund condition statements, budgets, and surcharge data. He stated that all surcharge rates appear to be on track with projected fiscal needs, and the Committee voted to make a recommendation to the Board that there be no change to the surcharge rates set by the Board. He added that the Committee discussed the possibility gathering and reporting certain benchmark/dashboard metrics to assist the Committee with future fiscal reviews.

**B) Finance Committee recommendations to the Board on the following Board surcharges:**

- a. To adjust the Board Operations Surcharge rate (currently 3% of all pilotage fees). Possible Board action to adjust the Board Operations Surcharge rate.**
- b. To adjust the Pilot Continuing Education Surcharge rate (currently \$5 per move). Possible Board action to adjust the Pilot Continuing Education Surcharge rate.**
- c. To adjust the Pilot Trainee Training Surcharge rate (currently \$20/trainee/move). Possible Board action adjust the Pilot Trainee Training Surcharge rate.**
- d. To adjust the Navigation Technology Surcharge rate (currently at \$40/move). Possible Board action to adjust the Navigation Technology Surcharge rate.**



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**MOTION:** Commissioner Nyborg moved that the Board accept the Finance Committee’s recommendation of no change to the Board Operations, Pilot Continuing Education, Pilot Trainee Training, and Navigation Technology Surcharge rates. President Schmid seconded the motion.

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

**ACTION:** The motion was approved.

**12. Pilot Fitness Committee – Knute Michael Miller**

**A) Report on the Pilot Fitness Committee meeting held on December 5, 2017.**

Pilot Fitness Committee Chairman Mr. Miller reported that the Committee met on December 5, 2017, and discussed progress on the San Jose State University Research Foundation (SJSURF) study on pilot fatigue, and pilot and trainee fitness determination protocols and procedures involving physicians at the University of San Francisco (UCSF). He reported the Committee also reviewed draft amendments to the Board’s fitness regulations that would further refine the Board’s fitness protocols.

**B) Progress Report on the Pilot Fatigue Study being conducted by the San Jose State University Research Foundation.**

Committee Chairman Miller reported that researchers from the SJSURF continue to make progress on the pilot fatigue study, including analyzing the recently completed pilot survey, and noted that the researchers were in the process of confirming if there is sufficient interest from pilots to participate in an active monitoring study phase.

**C) Possible Committee recommendation to the Board to assign the Committee to work jointly with the Rules and Regulations Committee to propose amendments to the regulations in Title 7, California Code of Regulations §§217-217.45 consistent with the Committee findings.**

Committee Chairman Miller reported that the Committee voted to recommend to the Board that the Board authorize joint sessions of the Pilot Fitness Committee and the Rules and Regulations Committee for the purpose of drafting amendments to the Board’s fitness regulations that would enable the following:

- Identify a time frame in which required fitness determinations and agility tests must be completed.

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- Provide that a new fitness determination or agility test is not required if a fitness determination or agility test has been completed within a certain time period.
- Authorize fitness determinations that are operative for periods of less than one year.
- Relax the qualifications for examining physicians to potentially increase the eligible physician pool, and improve the outcome of timely fitness determinations.
- Make other technical amendments to, among other things, update Board fitness forms and references to Coast Guard documents to reflect changes in regulations and updated forms.

**MOTION:** President Schmid moved that the Board assign the Pilot Fitness Committee to work jointly with the Rules and Regulations Committee to propose amendments to the regulations in Title 7, California Code of Regulations §§217-217.45 consistent with the Committee findings. Commissioner Schneider seconded the motion.

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

**ACTION:** The motion was approved.

Assistant Director Cristia-Plant confirmed for Commissioner Nyborg and Port Agent Long that the contract with UCSF can be amended at any time, and that the current contract expires June 30, 2018.

### **13. Pilot Safety Committee – Commissioner Livingstone**

#### **A) Report on the Pilot Safety Committee meeting held on December 12, 2017.**

Pilot Safety Committee Chairman Livingstone reported that the Committee met on December 12, 2017, and voted to recommend to the Board a mission statement for the Committee. He also reported that the Committee discussed the status of the under keel clearance study for the San Francisco Bay Main Ship Channel, reviewed and discussed recent pilot boarding arrangement deficiencies, and discussed instances of pilots being provided inaccurate air draft information which has resulted in allisions with overheard structures.

#### **B) Possible Committee recommendation for Board to approve a Pilot Safety Committee mission statement and Committee focus. Possible Board action to approve a Pilot Safety Committee mission statement and focus.**

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Committee Chairman Livingstone read the proposed Pilot Safety Committee mission statement. Board Counsel Eagan proposed a minor edit to the mission statement for clarification purposes.

**MOTION:** Commissioner Livingstone moved that the Board approve the Pilot Safety Committee mission statement, as amended. President Schmid seconded the motion.

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

**ACTION:** The motion was approved.

**C) Report on Committee discussions concerning recent pilot boarding arrangement deficiencies. Possible recommendation to the Board to pursue actions to mitigate pilot Boarding arrangement deficiencies. Possible Board action to pursue actions to mitigate pilot boarding arrangement deficiencies.**

Chairman Livingstone reported that staff from the United States Coast Guard (USCG) attended the Committee meeting, and that there was a discussion about pilot ladder safety incidents, the potential for the SFBP to provide training to USCG inspection staff on pilot ladder assessments, and the need for additional communication between the Executive Director and the USCG about the USCG's follow through on reported incidents. There was no recommendation to the Board.

**D) Report on Committee discussion on recent instances of pilots being provided with inaccurate air draft information, which has resulted in allisions with overhead structures. Possible Committee recommendation to Board to pursue actions to mitigate inaccurate air draft information being provided to pilots. Possible Board action to pursue actions to mitigate inaccurate air draft information being provided to pilots.**

Chairman Livingstone reported that the Committee held a discussion of the consequences of pilots receiving inaccurate air draft information, including causing allisions with overhead structures that could result in major damage to transportation infrastructure. He reported that the Committee directed staff to gather information on historical air draft incidents reported to the Board for further Committee review.

**14. 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.**

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Mr. Paetzold reported the following:

- The SFBP anticipates approximately \$110,000 in additional expenditures in the first quarter of 2018 to pay for Rosepoint software support and upgrades, annual license renewals for the precision docking system software, and California use tax on the Trelleborg hardware purchases made in 2017.
- There appears to be sufficient Navigation Technology Surcharge funds in reserve to pay the above-noted navigation technology expenses in early 2018, which will avoid the need for additional draws from the SFBP's line of credit taken out to finance navigation technology purchases.
- The SFBP plans to request the Finance Committee consider using Navigation Technology Surcharge funds to reimburse it for any software license and use tax expenditures.
- The line of credit taken out to finance navigation technology is projected to become converted to a long term loan on July 1, 2018.
- The current Navigation Technology Surcharge rate is expected to generate sufficient surcharge income to pay monthly principal and interest payments on the long term loan.

Captain McCloy commented that all of the navigation technology equipment and software is deployed and is functioning well. President Schmid thanked the SFBP for their efforts in the new navigation technology acquisition process, and noted the positive impacts to safety from the project.

**15. 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 to report.

**16. 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:

- On December 12, 2017, a letter of interest was sent to all Board licensees describing the objective monitoring phase of the study, and requesting pilots to indicate if they would like to participate in this study phase.

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- Significant progress has been made in the analysis of the September pilot fatigue factors survey.
- Analysis of the SFBP dispatch record data is ongoing.
- A review of hours of service limits in maritime and related industries is being finalized.

Assistant Director Cristia-Plant confirmed that the researchers should have an update to the final fatigue study tasks and a revised timeline sometime in January 2018. She also confirmed for Port Agent Long and Commissioner Hoppes that the researchers have not indicated the minimum number of participants necessary for a statistically significant sample for the active monitoring phases, but have stated that they can extrapolate worthwhile data from a small group of participants.

#### **17. 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.

#### **18. 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).**

Board Counsel Eagan stated there was nothing to report.

#### **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 directions to staff to develop safety policies and procedures. Possible Board action to direct staff to develop maritime safety policies and procedures.**

This agenda item was deferred to the January 2018 Board meeting.

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

There were no comments from the public.

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

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

**22. Adjournment.**

**MOTION:** President Schmid moved to adjourn the meeting. Commissioner Hoppes seconded the motion.

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

ABSTAIN: None.

**ACTION:** The motion was approved. The meeting was adjourned at 10:51 a.m.

Submitted by:



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Allen Garfinkle, Executive Director