

<p>Meeting Date:</p> <p>June 28, 2018</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

David Hoppes, Acting President, Dry Cargo Industry Member
 Captain George Livingstone, Pilot Member
 Captain Einar Nyborg, Pilot Member
 John Schneider, Wet Cargo Industry Member

Board Members Absent

Jennifer Ferrera Schmid, President, Public Member
 Dave Connolly, Vice President, Public Member
 Marlon Flournoy, Deputy Secretary for Transportation Planning, Representing the Secretary of
 the California State Transportation Agency
 Vacant, Public Member

Staff Present

Allen Garfinkle, Executive Director
 Roma Cristia-Plant, Assistant Director
 Dennis Eagan, Board Counsel
 Luis Cruz, Associate Governmental Program Analyst

Public Present

Past Board President Knute Mike Miller; Mike Jacob, Pacific Merchant Shipping Association
 (PMSA); Karen Fuller Tynan, Attorney-at-Law; Captain David Burchard, Pilot Trainee.

OPEN MEETING

1. Call to Order and Roll Call – Commissioner Hoppes

Commissioner Hoppes called the meeting to order at 9:30 a.m. Associate Governmental
 Program Analyst Cruz called the roll and confirmed a quorum.

2. Review and approval of Board meeting minutes – Commissioner Hoppes

**Board action to approve meeting minutes from the Board meeting held on
 May 24, 2018.**

Board members were presented with the draft minutes from the Board meeting held on May
 24, 2018. Commissioner Nyborg requested a minor edit to the minutes. There was no further
 discussion.

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- MOTION:** Commissioner Nyborg moved to approve the draft minutes of the meeting held May 24, 2018, as amended. Commissioner Schneider seconded the motion.
- VOTE:** YES: Hoppes, Livingstone, Nyborg, and Schneider.
NO: None.
ABSTAIN: None.
- ACTION:** The motion was approved.

Commissioner Hoppes then departed from the agenda order and addressed agenda items 9 and 11.

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

Progress report on the allision of the M/V ALAM SEJAHTERA with the USS-POSCO Steel dock (PBG 4) in Pittsburg, California on March 25, 2018. Possible Board action to grant an extension to present the M/V ALAM SEJAHTERA report at the Board meeting to be held on July 26, 2018. If an extension is requested, it is due to the investigation being incomplete.

Executive Director Garfinkle reported that on March 25, 2018, while outbound from the Dow Chemical dock (Pittsburg #6), the M/V ALAM SEJAHTERA allided with the dock face at USS-POSCO Industries (Pittsburg #4). Following the contact, the ship proceeded to Anchorage #9. He reported that the Incident Review Committee (IRC) respectfully requests an extension to present the IRC report at the July 26, 2018, Board meeting. He stated the extension is requested due to evidence from the investigation still being collected.

- MOTION:** Commissioner Nyborg moved that the Board grant an extension to the Incident Review Committee to present the report on the M/V ALAM SEJAHTERA at the July 26, 2018, Board meeting. Commissioner Livingstone seconded the motion.
- VOTE:** YES: Hoppes, Livingstone, Nyborg, and Schneider.
NO: None.
ABSTAIN: None.
- ACTION:** The motion was approved.

11. Finance Committee – Commissioner Hoppes

A) Report on the Finance Committee meeting held on June 12, 2018.

Finance Committee Chairman Hoppes stated the Finance Committee met on June 12, 2018, and thoroughly reviewed the Board’s financial situation and the Operations, Pilot

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Continuing Education, Pilot Trainee Training, and Navigation Technology Surcharge rates, as well as a proposal to adjust the Board's Pilot Trainee Training Program monthly stipend amount.

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

1) To adjust the Board Operations Surcharge rate (currently 3% of all pilotage fees) to 2.75% of all pilotage fees. Possible Board action to adjust the Board Operations Surcharge rate to 2.75% of all pilotage fees, or other amount approved by the Board.

Chairman Hoppes stated the Committee is recommending to the Board to reduce the Board Operations Surcharge rate, currently at 3% of all pilotage fees, to 2.75% of all pilotage fees. He commented that reducing the rate would satisfy the Board policy of maintaining a reserve equal to one year of surcharge revenue. Assistant Director Cristia-Plant reminded the Commissioners that any change to the Board Operations Surcharge rate requires approval from the Department of Finance.

MOTION: Commissioner Livingstone moved that the Board accept the Finance Committee's recommendation to adjust the Board Operations Surcharge rate from 3% to 2.75% of all pilotage fees. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

2) To adjust the Pilot Continuing Education Surcharge rate (currently \$5 per move) to \$25 per move. Possible Board action to adjust the Pilot Continuing Education Surcharge rate to \$25 per move, or other amount approved by the Board.

Chairman Hoppes stated the Committee is recommending to the Board to increase the Pilot Continuing Education rate currently at \$5/move to \$25/move, based on the fund reserve balance and projected revenues. He noted that this surcharge rate will not be adequate to fully meet the one-year reserve goals, as it is roughly half of what is necessary, but will act to smooth the increase.

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MOTION: Commissioner Schneider moved that the Board accept the Finance Committee’s recommendation to adjust the Pilot Continuing Education Surcharge rate from \$5 per move to \$25 per move. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

3) To adjust the Pilot Trainee Training Surcharge rate (currently \$20/trainee/move) to \$15 per trainee/move. Possible Board action to adjust the Pilot Trainee Training Surcharge rate to \$15 per trainee/move, or other amount approved by the Board.

Chairman Hoppes stated the Committee is recommending to the Board to decrease the Pilot Trainee Training Surcharge rate, currently at \$20/trainee/move, to \$15/trainee/move, based on the fund reserves and projected revenues.

MOTION: Commissioner Livingstone moved that the Board accept the Finance Committee’s recommendation to adjust the Pilot Trainee Training Surcharge rate, currently at \$20/trainee/move, to \$15/trainee/move. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

4) To adjust the Navigation Technology Surcharge rate (currently at \$40/move). Possible Board action to adjust the Navigation Technology Surcharge rate.

Chairman Hoppes stated the Finance Committee reviewed the Navigation Technology Surcharge rate data and decided to maintain the rate at \$40/move.

As there was no change to the surcharge, a vote was not taken.

5) Proposal to the Board to change the Pilot Trainee Training Program monthly stipend amount paid to trainees for participation in the Pilot Trainee Training Program, currently at \$6,000 per month, by up to an additional \$1,000 per month, a recommendation on the effective date of a changed stipend amount, and direction to staff to seek necessary budgetary authority for the changed stipend amount. Committee recommendation to the Board to direct staff to seek an increase in budget authority sufficient to increase the Pilot Trainee Training Program monthly

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stipend amount by up to \$1,000 per month, from a current \$6,000 per month up to \$7,000 per month, effective no sooner than July 1, 2019.

Chairman Hoppes stated the Finance Committee reviewed the Pilot Trainee Training monthly stipend amount, currently at \$6000, and is recommending that the Board direct Board staff to seek necessary budgetary authority for an increase of up to \$1,000, effective July 1, 2019. He reiterated that the Finance Committee recommends an increase to the budget authority and that the Committee took no position on increasing the stipend dollar amount at this time.

MOTION: Commissioner Schneider moved that the Board accept the Finance Committee’s recommendation to direct Board staff to seek budgetary authority for an increase to the Pilot Trainee Training stipend amount by up to \$1,000.00 per month, from a current \$6,000 per month up to \$7,000 per month, effective no sooner than July 1, 2019. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

Chairman Hoppes commented that the surcharge adjustments will net out to be zero or have minimal impact to the shipping industry.

3. President Announcements and Activities – Commissioner Hoppes

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 May 24, 2018.

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

- On June 4, 2018, a Stipulation for Suspension of Pilot’s License was sent to Captain Orrin Favro as a result of the Board decision on the Incident Review Committee’s

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Report involving the M/V SHEILA ANN and the M/V LEONORA VICTORY. The stipulation was for a thirty day suspension.

- On June 5, 2018, Board staff received notice that the U.S. Coast Guard had revised its series of 719 forms, including the CG-719K form used in the Board’s pilot and trainee medical assessments. He stated the revised forms were distributed to the SFBP and the Board’s physicians.
- On June 6, 2018, he received a signed electronic copy of the Stipulation for Suspension of Pilot’s License from Captain Favro. He reported that the suspension agreed to commenced June 6, 2018, through July 5, 2018. On June 14, 2018, Board staff received the Stipulation for Suspension of Pilot’s License from Captain Favro with an original signature.
- Also on June 6, 2018, Board staff received information that Lucille Barnhart, a surviving spouse of pensioner Captain James Barnhart, had passed away 23 days shy of her 102nd birthday.
- On June 11, 2018, he attended a Director’s meeting at the California State Transportation Agency.
- On June 13, 2018, Board staff received a report summarizing the results of the State Leadership Accountability Act 2017 audit for the California State Transportation Agency. He noted that the principal risk identified was “Staff – key person dependence and workforce planning.”
- Also on June 13, 2018, he sent a letter prepared by Board Counsel Eagan to one of the sons of Lucille Barnhart, a deceased surviving spouse of Captain James Barnhart. The letter requests the submission of a “Successor in Interest” declaration to assure the primary pension fiduciary that the final payments under the pension go to the proper beneficiary(s).
- On June 14, 2018, he attended the Harbor Safety Committee meeting held at the Port of Oakland.
- On June 15, 2018, Board staff received a letter from David Supan, CPA, one of the managers at the California State Controller’s Office, Division of Audits, notifying us that the agreed-upon procedures review of the SFBP-collected rates and surcharges for the year ending December 31, 2017, began with an entrance conference on June 12, 2018.
- On June 20, 2018, Board staff received an e-mail notifying us that on June 16, 2018, a Port of Corpus Christi Pilot, Captain Louis Adams, died after a gangway attached to a ship he was boarding at the dock collapsed. Captain Adams fell between the ship and the dock and suffered severe internal injuries.
- On June 26, 2018, Board staff received a copy of the PMSA *West Coast Trade Report* for the month of June, 2018, which included the April 2018 loaded twenty-foot equivalent unit (TEU) numbers, and several other articles.

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

- Between the April and May Board meetings, Board staff renewed the license of Captain Tylawsky.
- Since the May Board meeting, Board staff renewed the licenses of Captains Wehr, Hurt, Cvitanovic, Fawcett, Cloes, Carr, Manes, Alden, D'Aloisio, Haggerty, Larwood, Long, Miller, Nyborg, and Slack.

C) Report on Board surcharges.

Executive Director Garfinkle reported that the Board received a check from the SFBP in the amount of \$269,675.14 for the surcharge revenues for the month of May 2018, itemized as follows:

- Board Operations Surcharge: \$130,085.14
- Pilot Continuing Education Surcharge: \$ 4,230.00
- Pilot Trainee Training Surcharge: \$135,360.00

D) Report on legislative activities and contractual matters.

Assistant Director Cristia-Plant stated there was nothing to report on legislative matters.

For contractual matters, Assistant Director Cristia-Plant reported the following:

- California Highway Patrol (CHP) contract staff forwarded the contract amendment with the San Jose State University Research Foundation to the Department of General Services (DGS) on June 25, 2018, along with a request for emergency expediting since the amendment must be approved by the Department of General Services (DGS) on or before June 30, 2018.
- Following the Board's approval in April of a new contract with the UC Regents on behalf of the San Francisco Campus (UCSF), Board staff completed contract negotiations, and a new 3-year contract totaling nearly \$446,000, consistent with the Board's approval, was submitted to the CHP for processing on June 20, 2018. It is unknown how long it will take to get the contract fully executed and approved by DGS, but likely it will be after the July 1, 2018, start date listed in the contract. As such, Board staff also submitted a request for DGS to allow the contract start date to be prior to the DGS approval date. However, if for some reason this request is not approved by DGS, Board staff anticipate entering into a small contract amounting to less than \$5,000 with UCSF to cover medical costs in July 2018, and until the new contract is in place.
- Six contracts have been completed and are effective as of July 1, 2018:

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- A 5-year sole source contract with the SFBP in the amount of \$550,117 for various services to the Board.
- A 2-year contract with the State Controller’s Office for three annual pilotage and surcharge audits in the amount of \$110,904.
- An 18-month contract with the California Department of Human Resources (CalHR) for administrative support for the next Pilot Trainee Training Program selection examination in the amount of \$106,950.
- A 2-year contract with the California State University Maritime Academy (CMA) for administrative support for the next Pilot Trainee Training Program selection examination in the amount of \$188,000.
- A 2-year contract with CMA for administrative support for pilot continuing education training in the amount of \$215,750.

A 3-year contract with CHP for administrative support in the amount of \$447,000. She reported that the total for the six contracts is \$1,681,721.00.

- CalHR staff have informed Board staff that the Board will need to prepare the interagency agreement for trainee random drug testing services under CalHR’s master drug testing contract. CalHR staff have provided sample agreements to assist Board staff, and work on this interagency agreement will commence next month.
- CHP contract staff have not completed any work on the procurement paperwork necessary to select and contract with a CPA firm for pension calculation services or for the pension actuary services. Work is expected on these two procurements next fiscal year.

6. Port Agent’s Report – Captain Joseph Long

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

Port Agent Long was unable to attend the meeting. Executive Director Garfinkle read Port Agent Long’s submitted report.

Executive Director Garfinkle reported the following:

- Captain Pinetti has been not fit for duty (NFFD) since February 27, 2017.
- Captain Dowdle has been NFFD since September 23, 2017.
- Captain Martin has been NFFD since April 26, 2018.

Executive Director Garfinkle 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

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scheduled meetings, cancelling previously granted compensating-time-off requests, suspending SFBP internal working rules, and calling in off-watch pilots. He reported that there are currently 57 licensed pilots. He reported that there were 33 MRP exceptions in April 2018, and that the shortest rest period was 9.4 hours.

B) Monthly report on SFBP ship piloting business activity.

Executive Director Garfinkle reported that all SFBP equipment is operating normally.

Executive Director Garfinkle reported the billed vessel moves for May 2018 as follows:

- Bar Crossings: 600 Moves
- Bay Moves: 129 Moves
- River Moves: 56 Moves
- Total Moves: 785 Moves
- Gross Registered Tons (GRT): 34.4 Million

He reported that when comparing 2018 year-to-date vessel moves with the same period in 2017, total moves were up 3.2% and GRT was up 3.4%.

Executive Director noted that Port Agent Long explained that high shipping activity and pilots NFFD contributed to the May MRP's.

Commissioner Nyborg responded to an inquiry from Commissioner Hoppes and explained that the SFBP has multiple procedures in managing fatigue mitigation. Also, he stated that the SFBP is willing to help facilitate the Board's medical assessment process with UCSF. Commissioner Livingstone added that manpower and fatigue management issues are part of a system that the SFBP strives to keep in balance. He explained that the Pilot Power Committee has forecasted and discussed the manpower concerns.

C) Monthly confidential written report of SFBP pilots who have been absent for medical reasons (AFMR). 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 Teague

A) Report on the Pilot Evaluation Committee (PEC) meetings held on June 20, 2018.

Captain Teague was unable to attend the meeting. The Executive Director read Captain Teague's submitted report.

- The PEC met on June 20, 2018, and Captains Teague, Boriolo, and Carlier were present.
- In closed session, all trainees were interviewed and counseled individually on their progress in Pilot Trainee Training Program.
- The eight current trainees are Burchard, Crawl, Corbett, Freese, Greger, Pullin, Pyne Mercier, and Starnitzky.
- The two newest trainees, Captains Crawl and Pyne Mercier, continue to test for their federal pilotage endorsements.
- The other six trainees have completed all of their federal pilotage endorsement testing.
- All trainees are handling vessels as much as possible.
- All trainees are presently meeting the recommended benchmarks in the training program and are progressing at their individual rates.
- The next PEC meeting is scheduled for July 18, 2018, at 7:30 a.m., at the Board office.

Executive Director Garfinkle stated that Captain Teague reported that all trainees were able to attend a live man-overboard drill held aboard the on-coming duty pilot station boat. He stated the trainees were able to observe the importance of the proper use of safety gear as well as gain familiarity with the vessel's recovery procedure. He also reported that Captain Teague held an open-session discussion forum with all trainees at the June 20, 2018, PEC meeting. Commissioner Nyborg stated the open-session discussion is a great concept.

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 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.

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There was no 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 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.)**

Executive Director Garfinkle stated there were no reported safety standard violations.

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

Report on loss-of-propulsion events arising in May 2018, 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 U.S. Coast Guard’s Prevention/Response report –San Francisco Harbor Safety Report for May 2018, there were two loss-of-propulsion incidents, and that neither incident was related to fuel switching.

12. 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 was unable to attend the meeting. Executive Director Garfinkle read Mr. Paetzold’s submitted report and stated that there was nothing new to report.

13. 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.

Executive Director Garfinkle read Mr. Paetzold’s submitted report and stated that there was nothing new to report.

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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.

15. Litigation Regarding Pension Payments of Capt. James Nolan – Board Counsel Eagan

Discussion of a dispute 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 a final court order has determined that the trustees of the Kathleen D. Nolan 2014 Trust are entitled to 50% of Captain Nolan’s pension payment. He stated that the pension payments accumulated by the SFBP controller and all future payments will be paid to the trustees.

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 addressed the circumstances revolving the death of a Port of Corpus Christi Pilot, Captain Louis Adams, and referred the incident to the Pilot Safety Committee.

17. Board review of a written draft of its formal decision on the M/V SHEILA ANN and the M/V LEONORA VICTORY incidents – Board Counsel Eagan

Board review of a written draft of its formal decision made on May 24, 2018, in regard to the IRC recommendation on the M/V SHEILA ANN and the M/V LEONORA VICTORY incidents, including a review of Findings, Conclusions, and Order. The Board may go into closed session for a review of the Findings, Conclusions, and Order presented under this item pursuant to Harbors and Navigation Code section 1180.6(a) and Government Code section 11126(c)(3).

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Commissioner Hoppes requested that this agenda item be discussed in closed session.

CLOSED SESSION BEGAN: 10:21 a.m.
RETURN TO OPEN SESSION: 10:39 a.m.

Board Counsel Eagan announced that Board members reviewed the written draft of its formal decision made on May 24, 2018, in regard to the IRC's recommendation on the M/V SHEILA ANN and the M/V LEONORA VICTORY incidents, and voted unanimously to approve the draft, to be signed by Commissioner Hoppes, as meeting chair. There was no further discussion.

18. Public comment on matters not on the agenda.

There were no comments from the public.

19. Proposals for the next Board meeting agenda.

There were no proposal for the next Board meeting agenda.

20. Adjournment.

MOTION: Commissioner Nyborg moved to adjourn the meeting. Commissioner Livingstone seconded the motion.

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

ACTION: The motion was approved and the meeting adjourned at 10:39 a.m.

Submitted by:


