

<p>Meeting Date: August 22, 2019</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 14</p>
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Board Members Present

Dave Connolly, President, Public Member
 Joanne Hayes-White, Public Member
 David Hoppes, Dry Cargo Industry Member
 Captain Einar Nyborg, Pilot Member
 Stephanie Dougherty, Designee of the Secretary of the California Transportation Agency
 (CalSTA)

Board Members Absent

Matt Brooks, Vice President, Public Member
 Captain Oscar Prada, Tanker Company Industry Member
 Vacant, Pilot Member

Board Staff Present

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

Public Present

Knute Michael Miller, Past Board President; Captain Joseph Long, Port Agent and San Francisco Bar Pilots (SFBP) President; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; Captain Steve Teague, SFBP; Rex Clack, Esq.; Pilot Trainee Maximilian Starnitzky and family.

OPEN MEETING

1. Call to Order and Roll Call (President Connolly)

President Connolly called the meeting to order at 9:32 a.m. Administrative Assistant II Wong called the roll and confirmed a quorum.

2. Review and approval of Board meeting minutes (President Connolly)

Board action to approve the minutes from the Board meeting held on July 25, 2019.

Board members were presented with the draft minutes from the July 25, 2019, meeting. President Connolly and Commissioner Nyborg requested minor edits to the minutes. There was no further discussion.

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MOTION: Commissioner Hayes-White moved to approve the draft minutes of the meeting held on July 25, 2019, as amended. Commissioner Nyborg seconded the motion.

VOTE: YES: Connolly, Hayes-White, and Nyborg.
NO: None.
ABSTAIN: Hoppes.

ACTION: The motion was not approved.

3. President Announcements and Activities (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 July 25, 2019.

Executive Director Garfinkle reported the following:

- On August 7, 2019, he gave a presentation at the St. Francis Yacht Club in which he addressed state pilotage and the role of the Board in pilotage regulation. Attendees included: Vice President Brooks and his wife; Captains Nancy Wagner and Hugo Kenyon, former Board-licensees; Rex Clack, Esq.; and Assistant Director Cristia-Plant.
- Also on August 7, 2019, Board staff received the written decision of the Selection Appeal Committee regarding Captain Elizabeth Bunch's appeal of the denial of experience points related to her second appeal of her 2019 Pilot Trainee Training Selection Examination application. He stated that the Committee upheld his denial of points for her experience gained prior to her obtaining a 1,600 ton federal maritime license endorsement since Board regulations state that points are to be awarded for experience gained while holding the endorsement.
- On August 8, 2019, Board staff received a U.S. Coast Guard Marine Safety Alert entitled, *Cyber Incident Exposes Potential Vulnerabilities Onboard Commercial Vessels*.
- On August 15, 2019, Board staff received a copy of the Senate Rules Committee's unanimous confirmation of the appointment of Commissioner Brooks at its meeting held on August 12, 2019.
- On August 19, 2019, Board staff received a letter from CalSTA Secretary David Kim delegating Darwin Moosavi, Deputy Secretary, Environmental Policy and Housing

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- Coordination as his primary designee to the Board, and Stephanie Dougherty, Deputy Secretary for Transportation Safety and Enforcement as his alternative designee.
- On August 20, 2019, Board staff received a copy of the PMSA *West Coast Trade Report* for August 2019.

B) Report on pilot licensing matters since the Board meeting held on July 25, 2019.

Executive Director Garfinkle reported that since the July 2019 Board meeting, the Board renewed the licenses of Captains Merritt and Laakso.

C) Report on Board surcharges.

Executive Director Garfinkle reported that since the July 2019 Board meeting, the Board received a check from SFBP in the amount of \$186,943.44, itemized as follows:

- Board Operations Surcharge: \$104,068.44
- Trainee Surcharge: \$ 64,335.00
- Continuing Education Surcharge: \$ 18,540.00

D) Report on legislative activities and contractual matters.

Associate Governmental Program Analyst Cruz stated that there were no legislative activities to report.

Associate Governmental Program Analyst Cruz reported the following on contractual matters:

- Board staff continue to work on a new contract with the California Human Resources Department for trainee random drug testing.
- On July 29, 2019, Board staff met with information technology staff at the California Department of Transportation, to discuss an expanded scope of work for the new contract. The current contract with the California Department of Transportation expires at the end of this month.

President Connolly thanked Executive Director Garfinkle for including the U.S. Coast Guard Marine Safety Alert in his report and expressed a concern about potential security vulnerabilities onboard commercial vessels.

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6. Port Agent’s Report (Port Agent Long)

A) Monthly report for July 2019 on San Francisco Bar Pilots (SFBP) pilot availability and absences.

Port Agent Long reported the following pilots have been absent for medical reasons (AFMR) and their initial absence date:

- Captain Kleess–November 26, 2018.
- Captain McCloy–July 10, 2019.
- Captain Coppo –August 13, 2019.

He 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 less than 10 hours, mitigation measures are employed by the SFBP. He reported that the mitigation measures include, but are not limited to, suspending continuing professional development protocols, canceling scheduled meetings, canceling previously granted compensated time off requests, suspending SFBP internal working rules, and calling in off-watch pilots.

He reported that there are currently 56 licensed pilots. He reported that there were 12 MRP exceptions in July, and that the shortest rest period was 9.3 hours.

B) Monthly report for July 2019 on SFBP ship piloting business activity.

Port Agent Long reported that P/V CALIFORNIA has been in the shipyard since August 21, 2019, for a scheduled maintenance.

Port Agent Long reported that the billed vessel moves for July 2019 were as follows:

- Bar Crossings: 544 moves
- Bay Moves: 151 moves
- River Moves: 46 moves
- Total Moves: 741 moves
- Gross Registered Tons (GRT): 32.4 million

He also reported that when comparing 2019 year-to-date vessel move data with the same period in 2018, total moves were up 0.7% and GRT was down 3.1%.

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- C) Monthly confidential written report for July 2019 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 reports of pilots who have been absent for medical reasons. There was no closed session discussion of this item.

7. Pilot Evaluation Committee (Captain Teague)

- A) Report on the Pilot Evaluation Committee (PEC) meeting held on August 14, 2019.**

PEC Chair Captain Teague reported the following for the August 14, 2019, PEC meeting:

- The PEC met on August 14, 2019, and in attendance were Committee members Captains Boriolo, Carlier, Haggerty, Robinson, and Teague.
- All trainees were interviewed and counseled individually in closed session by the PEC members on their progress in the Pilot Trainee Training Program.
- The seven current trainees include Captains Benedict, Burchard, Nelson, Pyne Mercier, Rogers, Starnitzky, and Stevens. The range of time in the program for these trainees spans 11 days to 25 months.
- Three of the seven trainees have their full unlimited federal pilotage endorsement with the United States Coast Guard. These three trainees are handling vessels as much as possible, and two of these three trainees are in the evaluation stage.
- Trainees Nelson and Stevens are close to completing their trips and preparing to test for the unlimited tonnage routes and are handling vessels in areas where they have their pilotage endorsements.
- The two newest trainees, Benedict and Rogers, started the program with their orientation on August 12, 2019. Both trainees have a considerable amount of experience working in the San Francisco Bay area and are presently observing on trips to orient themselves to the training program as well as acquire the necessary pilotage trips for route testing.
- All trainees are presently meeting the recommended benchmarks in the program and are progressing at their own rate.
- The next PEC meeting is scheduled for September 19, 2019, at 7:30 a.m. at the Board office.

- 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.**

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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.

Captain Teague reported that the PEC concluded its final assessment of trainee Captain Maximilian Starnitzky at the Committee meeting held on August 14, 2019, and determined that Captain Starnitzky successfully completed all elements of Section 214(c) and (h) of the Pilot Trainee Training Program requirements listed in the Board's regulations. Captain Teague provided the following data:

- Captain Starnitzky entered the Pilot Trainee Training Program on December 1, 2017.
- Since that time, Captain Starnitzky completed a total of 640 training jobs with the San Francisco Bar Pilots, of which 185 were as an observer, and 455 were handled or partially handled in which Captain Starnitzky directed the navigation and control of the vessel.
- Captain Starnitzky completed 126 training jobs with PEC members, 20 of which were in the previous 90 days.
- As required by regulation, Captain Starnitzky maintained an average PEC member training job evaluation score of 4.0 or greater in each of the last three months, resulting in a three-month average score of 4.42.
- The PEC determined that Captain Starnitzky has successfully completed the Pilot Trainee Training Program, and recommended that the Board issue Captain Starnitzky a Certificate of Completion from the program, effective August 22, 2019.

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

MOTION: Commissioner Nyborg moved to award Captain Maximilian Starnitzky a Pilot Trainee Training Program Certificate of Completion. Commissioner Hoppes seconded the motion.

VOTE: YES: Connolly, Hayes-White, Hoppes, and Nyborg.

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

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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.

Executive Director Garfinkle reported to the Board that he has received an application for initial licensure from Captain Maximilian Starnitzky. He noted that Captain Starnitzky has met all the requirements for licensure, that there are fewer than 60 licenses currently issued, and recommended to the Board that a license be issued to Captain Starnitzky. There was no further discussion and no comments from the Board or the public.

MOTION: Commissioner Nyborg moved to issue a license to Captain Maximilian Starnitzky. Commissioner Hayes-White seconded the motion.

VOTE: YES: Connolly, Hayes-White, Hoppes, and Nyborg.

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

President Connolly called for a short recess and administered the oath of office to Captain Starnitzky during the recess.

RECESS BEGAN: 9:51 a.m.

RETURN TO OPEN SESSION: 10:03 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 that there were no safety standard violations to report on.

**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 on the interaction between the M/V XING ZUN HAI while passing the mooring M/V WENCHE VICTORY in Stockton on October 4, 2018. Possible Board action to grant the Incident Review Committee an extension to present the M/V XING ZUN HAI report at the Board meeting to be held on September 26, 2019.

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Executive Director Garfinkle stated that this agenda item will be discussed under agenda item 13.

B) Progress report on the unintended contact between the M/V ALYARMOUK and a temporary buoy marking the Fleet Week parade boundaries on October 7, 2018. Possible Board action to grant the Incident Review Committee an extension to present the M/V ALYARMOUK report at the Board meeting to be held on September 26, 2019.

Executive Director Garfinkle reported that on October 7, 2018, the M/V ALYARMOUK was inbound from the pilot station. Following a pilot change off the city front, the ship allided with a temporary buoy marking a Fleet Week air box. He explained that the report is not available for presentation due to the ongoing investigation. He stated the IRC is requesting an extension to present this report at the September Board meeting. He also noted that there is no risk to the public safety due to the delay of this report.

MOTION: Commissioner Nyborg moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V ALYARMOUK at the September 26, 2019, Board meeting.
Commissioner Hoppes seconded the motion.

VOTE: YES: Connolly, Hayes-White, Hoppes, and Nyborg.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

C) Progress report on the M/V ARCTIC making unintended contact with the AMORCO dock (MRZ5) on December 2, 2018. Possible Board action to grant the Incident Review Committee an extension to present the M/V ARCTIC report at the Board meeting to be held on September 26, 2019.

Executive Director Garfinkle reported that on December 2, 2018, the M/V ARCTIC was mooring portside at the AMORCO pier (MRZ5) when the bow made unintended contact with the pier structure, resulting in minor damage to the pier structure. He reported that the IRC report is not available for presentation at this Board meeting because the investigation is still ongoing. He stated that the IRC is requesting an extension to present this report at the September Board meeting. He also noted that there is no risk to the public safety due to the delay of this report.

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MOTION: Commissioner Nyborg moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V ARCTIC at the September 26, 2019, Board meeting. Commissioner Hayes-White seconded the motion.

VOTE: YES: Connolly, Hayes-White, Hoppes, and Nyborg.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

Executive Director Garfinkle stated that an event occurred after the agenda for this meeting was disseminated, and reported that he was notified on August 14, 2019 that an event took place on August 12, 2019, in which the M/V WASHINGTON was alleged to have landed hard at the Valero pier (BNC4), resulting in minor damage to the structure. He reported that the 90-day statutory deadline for the report is November 9, 2019, and that no Board action is required at this meeting

10. Loss-of-Propulsion/Reduction in Propulsion Report (Executive Director Garfinkle)

Report on loss-of-propulsion and reduction in propulsion events arising in July 2019, as reported by the U.S. Coast Guard.

Executive Director Garfinkle reported that the U.S. Coast Guard Loss-of-Propulsion/Reduction in Propulsion report for July 2019 was not available. He stated that loss-of-propulsion and reduction in propulsion events arising in July and August 2019, would be reported at the September Board meeting. There were no further comments or discussion.

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.

SFBP President Long reported that the route piloting and precision docking equipment and software continue to work well.

12. Pilot Fitness Committee (Committee Chair Miller)

A) Report on the Pilot Fitness Committee meeting held on August 21, 2019.

B) Report on the Committee's review and discussion of the recommendations contained in the July 2018 San Francisco Bar Pilot Fatigue Study produced by San Jose State University Research Foundation and the National Aeronautics and Space

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Administration, the identification of recommendations appropriate for incorporation into regulations, and the development of a fatigue risk management policy. Possible Board action to accept the Committee’s recommendations on a fatigue risk management policy from which fatigue regulations will be drafted, and to direct one or more Committees and Board staff to commence draft regulation writing.

Agenda items 12A and 12B were reported on concurrently.

Committee Chair Miller reported that the Pilot Fitness Committee (PFC) met on August 21, 2019, and continued its review of the Pilot Fatigue Study (Study) recommendations made by the San Jose State University Research Foundation in collaboration with NASA. He noted that the meeting will be continued to August 30, 2019, and that the Board was provided with the current working draft of fatigue management regulation policies along with other pertinent pilot fatigue management information the Committee has reviewed.

President Connolly thanked PFC Chair Miller, Mr. Jacob, and the public for dedicating their time to review the SFBP Fatigue Study’s recommendations and for providing possible solutions.

President Connolly then recused himself from his seat on the Board, and assumed his position as a member of the Incident Review Committee (IRC) along with Executive Director Garfinkle, and turned the meeting over to Commissioner Hayes-White to Chair.

13. Incident Review Committee incident report on the M/V XING ZUN HAI interaction with the M/V WENCHE VICTORY (Committee Chair Connolly)

A presentation of the Incident Review Committee report on the event involving the M/V XING ZUN HAI interaction with the M/V WENCHE VICTORY in the Port of Stockton, on October 4, 2018. Board deliberation and decision with respect to possible pilot error. Board determination with respect to further actions, if appropriate. The Board may go into closed session for the deliberation of the incident report presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3).

Executive Director Garfinkle presented the Incident Review Committee (IRC) report to the Board on the event involving the M/V XING ZUN HAI interaction with the M/V WENCHE VICTORY, and stated the event involved Captains Bruce Alden and Erik Fawcett.

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Executive Director Garfinkle began the presentation by providing the Board with the set of facts from the M/V XING ZUN HAI and M/V WENCHE VICTORY event as follows:

1. On the afternoon of October 4, 2018, the M/V XING ZUN HAI (XING ZUN HAI) was entering the Port of Stockton, bound for Berth 2 with Captain Bruce Alden supervising Board of Pilot Commissioners (BOPC) trainee Captain Casey Crowl, who was conning. The ship was inbound from sea.
2. The M/V WENCHE VICTORY (WENCHE VICTORY) was alongside in Port of Stockton, Berth 9, in the process of mooring when the XING ZUN HAI was entering the harbor. The pilot on the WENCHE VICTORY was Captain Erik Fawcett accompanied by BOPC trainee, Captain Christopher Pyne Mercier.
3. The berthing instructions to the WENCHE VICTORY pilot were to spot the ship so as the cargo manifold on the dock lined up with the ship's manifold, but to leave room for a ship located at Berth 7/8 to back out.
4. When the WENCHE VICTORY was spotted as directed, it became apparent that there was not enough room for the ship at Berth 7/8 to safely back out, so Captain Fawcett was directed to move the WENCHE VICTORY down the dock to the west.
5. The WENCHE VICTORY had just shifted down the dock, and the spring lines and breast lines had been made fast on the dock. The two after spring lines had short leads. One witness reported that some of the spring lines (not clear which ones) were "semi-slacked" and that the vessel was "in the middle of tying up."
6. The pilot on the XING ZUN HAI had slowed to allow more time for the WENCHE VICTORY to complete the mooring operation, but was told that they were experiencing difficulties with the dock line-up and were not completely moored, but that they were clear to come by, as they had spring lines fore and aft, had breast lines out, and both tugs working.
7. The XING ZUN HAI proceeded to pass the WENCHE VICTORY at approximately three knots. As it passed the stern of the WENCHE VICTORY, it overcame the winch brakes and the mooring lines surged. The stern of the WENCHE VICTORY came off the dock by about ten feet and the two after spring lines parted at the fairlead chocks.
8. There were no injuries to persons and no damage to the dock. None of the other ships moored in Stockton experienced any damage. The only damage was to the two spring lines. Both ships proceeded to complete mooring with no further issues.

Executive Director Garfinkle then thoroughly discussed the evidence and the IRC's analysis of the passage of the XING ZUN HAI, the mooring of the WENCHE VICTORY, whether the XING ZUN HAI was proceeding in a reasonable and cautious manner, and if Captain Alden's and Captain Fawcett's actions were reasonable and prudent and made using their best judgement.

Executive Director Garfinkle stated that based on the evidence and analysis, the IRC recommends the following:

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1. That the Board find for no pilot error for Captain Alden and Captain Fawcett in this case.
2. That this case be closed with no further action.

Commissioner Hoppes inquired if a pilot is responsible for ensuring the vessel is moored properly. Executive Director Garfinkle explained that the pilot usually informs the Captain when it is okay to moor the vessel, and in this situation, the Captain of the WENCHE VICTORY told the pilot the ship was all fast. He also confirmed for Commissioner Hoppes that this type of event could occur again in the Port of Stockton, given the tight quarters, shallow water, and large vessels with little under keel clearance – all factors in creating hydraulic interaction.

Commissioner Nyborg commented that mooring lines parting is a common occurrence, and noted the immense amount of work required by the IRC for a common issue that resulted in minor damage with little monetary consequence. He stated that 3 knots is about as slow as you can go in the Port of Stockton, and that once the pilot is notified that a ship is all fast, the pilot's work is complete and responsibility is returned to the captain.

Executive Director Garfinkle stated that the IRC is tasked with investigating any event that may involve pilot misconduct or a pilot safety issue. Board Counsel Eagan stated that the degree of damage is not the sole determining factor on whether there may be pilot misconduct, and that there have been some near misses that have resulted in pilot sanctions.

Commissioner Hoppes and Hayes-White commented that it is important to use such events as learning opportunities. Executive Director Garfinkle commented that these reports are circulated among the licensees and that he is aware that pilots discuss IRC reports at their monthly meetings. There was also some discussion of a quorum, and a vote was taken.

MOTION: Commissioner Hoppes moved to accept the Incident Review Committee's recommendation regarding the event involving the M/V XING ZUN HAI interaction with M/V WENCHE VICTORY in the Port of Stockton on October 4, 2018, that the Board find that there was no pilot or trainee error, and that the investigations be closed without further action.

VOTE: YES: Hayes-White, Hoppes, and Nyborg.

NO: None.

ABSTAIN: None.

ACTION: The motion was not approved due to a lack of a quorum

Commissioner Hayes-White yielded the Chair duties back to President Connolly.

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14. Incident Review Committee incident report on the M/V ALYARMOUK allision with a temporary buoy (Committee Chair Connolly)

A presentation of the Incident Review Committee report on the event involving the M/V ALYARMOUK allision with a temporary buoy marking the Fleet Week airbox on October 7, 2018. Board deliberation and decision with respect to possible pilot error. Board determination with respect to further actions, if appropriate. The Board may go into closed session for the deliberation of the incident report presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3).

This agenda item was not presented, and was discussed in agenda item 9B.

15. Board discussion of best practices in Maritime Safety (President Connolly)

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 Pilot Safety Committee to develop maritime safety policies and procedures.

There was no discussion from the Board regarding best practices in Maritime Safety.

16. Public comment on matters not on the agenda.

There were no comments from the public.

17. Proposals for the next Board meeting agenda.

There were no recommendations for the next meeting agenda.

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18. Adjournment.

- MOTION:** Commissioner Hayes-White moved to adjourn the meeting.
Commissioner Hoppes seconded the motion.
- VOTE:** YES: Connolly, Hayes-White, Hoppes, and Nyborg.
NO: None.
ABSTAIN: None.
- ACTION:** The motion was approved, and the meeting adjourned at 11:01 a.m.

Submitted by:



Allen Garfinkle
Executive Director