

<p>Meeting Date: November 14, 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 12</p>
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Board Members Present

Dave Connolly, President, Public Member
 Captain Robert Carr, Pilot Member
 Joanne Hayes-White, Public Member
 David Hoppes, Dry Cargo Industry Member
 Captain Einar Nyborg, Pilot Member
 Captain Oscar Prada, Tanker Company Industry Member

Board Members Absent

Matt Brooks, Vice President, Public Member
 David Kim, Secretary of the California State Transportation Agency (CalSTA)

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, San Francisco Bar Pilots (SFBP) President and Port Agent; Ray Paetzold, SFBP General Counsel; Captain Gregory Tylawsky, SFBP; and Rex Clack, Esq.

OPEN MEETING

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

President Connolly called the meeting to order at 9:34 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 October 24, 2019.

Board members were presented with draft minutes from the October 24, 2019, meeting. There was no discussion or edits to the draft minutes.

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MOTION: Commissioner Hayes-White moved to approve the draft minutes of the meeting held on October 24, 2019. Commissioner Prada seconded the motion.

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

ACTION: The motion was approved.

3. President Announcements and Activities (President Connolly)

There was no announcement.

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 October 24, 2019.

Executive Director Garfinkle reported the following:

- On October 22, 2019, Board staff received a copy of the Pacific Merchant Shipping Association *West Coast Trade Report* for October.
- On October 25, 2019, Board staff received a copy of an article authored jointly by Captains Grant Livingstone, John Merrigan, and John Konrad titled, "Managing Resources or Managing Audits?" He stated that the article addressed whether mariners are managing ships or are managing regulations that focus on leaving a paper trail for an audit, rather than actually applying the principles of bridge resource management to reduce risk during a passage.
- On November 5, 2019, Board staff received a copy of a National Transportation Safety Board (NTSB) Marine Accident Brief involving a cruise ship that allided with the Manhattan Cruise Terminal Pier 90. He noted that the NTSB determined the probable cause was ineffective communication between the master and the docking pilot, and the bridge team's ineffective oversight of the docking maneuver.
- On November 7, 2019, Board staff received a note from Captain Ray Ridens that stated the physical assessment process for his Board license renewal went very smoothly.
- On November 11, 2019, he attended the combination course training at the California State University Maritime Academy, and spoke to six Board licensees and one Board trainee concerning the Board's role in piloting.
- On November 13, 2019, Board staff received a copy of Marine Safety Information

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Bulletin 09-19 titled, “Ebola Virus Precautions.” He stated that the notice stated Tanzania has documented cases of Ebola, and provides information on symptoms and precautions.

B) Report on pilot licensing matters since the Board meeting held on October 24, 2019.

Executive Director Garfinkle reported that since the October 2019 Board meeting, the Board renewed licenses for Captains Johnson, Favro, Teague, Freese, Lowe, and Ridens.

C) Report on Board surcharges.

Executive Director Garfinkle stated that due to the early date of the Board meeting, the Board had not yet received the October surcharge revenues.

D) Report on legislative activities and contractual matters.

Assistant Director Cristia-Plant stated that there were no legislative activities to report.

Assistant Director Cristia-Plant reported the following on contractual matters:

- Board staff continue to work on an amendment to the existing contract with the SFBP to expand the scope of work and modify the budget to include trainee random drug testing.
- Board staff sent paperwork to the California Highway Patrol contract staff for a contract with the State Controller’s Office to pay for expedited state warrant fees.
- The Board’s contract with Citibank to pay for travel services through the CalTravelStore has expired. She noted that the CalTravelStore provides Board staff with hotel, rental car and airline travel arrangements, and that a service charge, airline fares and rental car fees are charged to the card. She stated that Board staff have started the contract renewal paperwork with the California Highway Patrol contract staff.

President Connolly thanked Executive Director Garfinkle for including the article on bridge resource management and stated the term is becoming overused and devoid of meaning.

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

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

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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 Coppo – August 13, 2019.
- Captain Carlier – September 11, 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 57 licensed pilots, that there were 7 MRP exceptions in October, and that the shortest rest period was 10.3 hours.

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

Port Agent Long reported that the P/V CALIFORNIA has been in the shipyard since August 21, 2019, for scheduled maintenance, and that reduction gear overhauls are completed with sea trials scheduled for November 14, 2019.

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

- Bar Crossings: 602 moves
- Bay Moves: 160 moves
- River Moves: 39 moves
- Total Moves: 801 moves
- Gross Registered Tons (GRT): 35.1 million

He also reported that when comparing 2019 year-to-date vessel move data with the same period in 2018, total moves were up 1.0% and GRT was down 2.7%.

Port Agent Long confirmed for Commissioner Prada that some pilots who are AFMR do come into the office and work as the Operations Pilot to help with pilot availability for the week.

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C) Monthly confidential written report for October 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 report 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 November 6, 2019.

PEC Chair Captain Teague was absent. Executive Director Garfinkle read his written report as follows:

- The PEC met on November 6, 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 eight current trainees include Captains Adams, Benedict, Burchard, Deisher, Nelson, Pyne Mercier, Rogers, and Stevens. The range of time in the program for these trainees spans 2 to 28 months.
- Two of the six trainees have their full unlimited federal pilotage endorsement with the U.S. Coast Guard. Two other trainees have completed all testing and are finalizing the requirement for route trips. These four trainees are handling vessels as much as possible now, with two trainees in the evaluation stage.
- Two of the newer trainees, Benedict and Rogers, are acquiring route trips and are testing for unlimited tonnage pilotage routes, and are beginning to handle vessels in areas where they have their endorsements.
- The two newest trainees, Adams and Deisher, are gathering route trips for testing with the U.S. Coast Guard.
- 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 December 4, 2019, at 7:30 a.m. at the Board office.

Executive Director Garfinkle clarified for Commissioner Prada that trainees are not held to the same work standards as pilots, and that the PEC members guide trainees on training jobs needed and frequency of jobs. Commissioner Nyborg added that during the first few months trainees are observing and not handling vessels. When trainees begin to handle vessels, they mirror a working pilot’s work schedule to ensure adequate rest.

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Commissioner Nyborg also confirmed for Commissioner Hoppes that the Board’s regulations require that trainees be in the evaluation stage a minimum of three months, and scoring an average of at least a 4.0 from PEC members during that time.

- 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.**

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 reported that he received a report of a pilot ladder deficiency that took place on September 30, 2019, involving the S/S PETERSBURG, a ready reserve fleet vessel. He stated that the issue was not a poor pilot ladder, but that the rigging of the ladder was deficient, and that the incident took place at sea. He did not report this incident to the U.S. Coast Guard.

Executive Director Garfinkle also reported that he received a report of a pilot ladder deficiency that took place on November 11, 2019, involving M/V NAVIOS SERENITY, and stated that the combination accommodation/pilotommodation ladder was not secured to the vessel hull. Port Agent Long stated that typically a magnet or suction cup is utilized to attach the ladder to the vessel.

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

- A) Status 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 December 12, 2019.**

Executive Director Garfinkle stated he did not have a status report since this Incident Review Committee report would be presented as agenda item #13.

- B) Status report on the alleged hard landing of the M/V WASHINGTON at the Valero pier (BNC4) on August 12, 2019. Possible Board action to grant the Incident Review Committee an extension to present the M/V WASHINGTON report at the Board meeting to be held on December 12, 2019.**

Executive Director Garfinkle reported that on August 12, 2019, 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 stated the IRC is requesting an extension to present the Incident Review Committee report at the December Board meeting because the investigation is still ongoing.

MOTION: Commissioner Hayes-White moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V WASHINGTON at the December 12, 2019 Board meeting.

Commissioner Hoppes seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

- C) Status report on the event involving the P/V STAR PRINCESS wherein a tugboat made fast to the P/V STAR PRINCESS made contact with Pier 23 in San Francisco on October 2, 2019.**

Executive Director Garfinkle reported that on October 2, 2019, the P/V STAR PRINCESS was mooring at Pier 27, San Francisco, (SFO 27), and the assist tug, DELTA CATHRYN, made unintended contact with Pier 23 during the mooring process, resulting in damage to the pier structure. He stated that no Board action is necessary at this time. He also noted that the Incident Review Committee report may take longer than usual to

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investigate since the IRC is having difficulties obtaining information from the vessel and the tug.

10. Significant Port Safety and Security Cases Report (Executive Director Garfinkle)

Report on marine casualties, navigational safety and significant incident management cases relevant to the Board as reported by the U.S. Coast Guard in its Prevention / Response – San Francisco Harbor Safety Statistics report for October 2019.

Executive Director Garfinkle stated that the information for this report is received at the Harbor Safety Committee of the San Francisco Bay Region, and that the HSC is meeting at the same time as the Board. He stated that he would report for October at the December Board meeting.

11. Navigation Technology Equipment and Software Acquisition Update (SFBP General Counsel Paetzold)

Status report on the SFBP’s navigation technology equipment and software implementation.

Mr. Paetzold reported on behalf of Captain McIntyre that all navigation equipment is working well, and that there are no issues to report.

12. Agenda item 12 was deferred to later in the meeting.

President Connolly turned the meeting over to Commissioner Hayes-White to chair, and assumed his position on the Incident Review Committee (IRC). He then called for a short recess for the IRC to set up its presentation on the M/V ARCTIC.

MEETING RECESSED: 10:28 a.m.

MEETING RESUMED: 10:40 a.m.

13. Incident Review Committee incident report on the M/V ARCTIC (Committee Chair Connolly)

A presentation of the Incident Review Committee report on the event involving the M/V ARCTIC making unintended contact with the AMORCO dock (MRZ5) on December 2, 2018. Board deliberation of the Incident Review Committee’s recommendations to the Board and determination regarding the event involving the M/V ARCTIC. The Board may go into closed session for the deliberation of the incident report presented under this

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item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3).

Executive Director Garfinkle introduced the pilot’s counsel, Rex Clack, Esq. He then presented the IRC report for the M/V ARCTIC, and stated the following:

1. On the evening of December 2, 2018, the M/V ARCTIC (ARCTIC) was enroute from the offshore pilot station to the Amorco berth (MRZ5) in Martinez, piloted by Captain Paul Ruff, a Board-licensed pilot.
2. Captain Ruff boarded the ARCTIC at the pilot station at approximately 1830 hours. The transit inbound was uneventful. The escort tug GOLIAH met the ship at Mile Rocks and Captain Ruff had the tug tether on the center lead aft for the transit inbound. A second escort tug, VIGILANT, joined the vessel in Pinole Shoal Channel, and took position on the starboard bow. In the vicinity of Buoy 25, a third tug, the ABRAH FRANCO, joined the vessel for the docking procedure at approximately 2208 hours.
3. Captain Ruff initiated a turn to port at the western end of the nearby Shell dock, and backed the vessel into the berth. While backing into the berth, a sound described by the ship’s master, Captain Markoutis, as splintering wood was heard in the vicinity of the bow.
4. The ship continued the mooring operation without further incidents. The following morning a representative from the terminal notified the master that the dock had sustained some damage during the mooring. A Commission Investigator was dispatched that day to investigate the event.
5. A post-event inspection report from structural engineering firm COWI, North America, noted that the steel bull rail and the “piano keys” plank walkway was displaced approximately one foot.
6. The IRC consisted of President Dave Connolly, as Chair, and Executive Director Allen Garfinkle.

Executive Director Garfinkle further reported that the ship master stated that the pilot did an excellent job of piloting the vessel, that there was approximately \$23,400 in repair costs, that the U.S. Coast Guard did not investigate further because it was not a serious marine incident, that he did not identify any problems with the pilot’s work/rest periods before the incident, that drug tests came back negative, that Captain Ruff was first licensed in January 2011, and that he has no prior incidents.

Executive Director Garfinkle stated that the IRC considered the facts in this case and that while the Board is not bound to apply tort law to their consideration of the incident, the standard of care applied in case law is whether the level of care is equivalent to what would have been commonly possessed by others in the same employment, but noted that a pilot is not liable for mere errors in judgment. He stated the IRC reviews the facts for evidence of pilot misconduct, and that the Harbors and Navigation Code defines misconduct as negligently, ignorantly, or willfully running a vessel on shore, or otherwise rendering it liable to damage, or otherwise causing injury to persons or damage to property. He noted that based upon the evidence

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collected, the IRC ruled out ignorance and willfulness, and limited its review to the examination of negligence.

He stated that there is no dispute that there was damage to the dock caused by the ARCTIC, and that the evidence available to the IRC was inconclusive as to how the ship made unintended contact with the dock. He stated that the IRC did note that there is a Docking Aid System (DAS) installed at the Amorco Pier, and that the DAS scoreboard was not turned on the night of the docking or not working. He further stated that the DAS is only one of many tools available to the pilot and ship master while docking.

He concluded the report by stating that the IRC determined that this incident appears to be a case where damage occurred in spite of reasonable actions by the pilot, that the standard of care allows for mere errors in judgment. Therefore, despite the damage sustained, the IRC concluded that Captain Ruff acted reasonably when mooring the ARCTIC on December 2, 2018. He stated the IRC recommended to the Board that the Board find for no misconduct on the part of the pilot, and that the investigation be closed without further action.

Executive Director Garfinkle responded to Commissioner Nyborg and stated that the DAS is required by the Marine Oil Terminal Engineering and Maintenance Standards, known as MOTEMS, which are building standards that apply to all marine oil terminals in California. He stated that the MOTEMS establish minimum engineering, inspection, and maintenance criteria for marine oil terminals to protect public health, safety and the environment. He reminded the Board that the DAS is but one tool a pilot can utilize to dock ships at MRZ5. Commissioner Hoppes stated that pilots have been docking ships in Martinez for decades prior to the installation of the DAS.

Executive Director Garfinkle clarified for Commissioner Prada that he was not certain of the communication between the pilot and the chief mate on the bow, but that the IRC confirmed that the terminal turned on the dock lights after the ship had docked, and that the IRC was unable to determine if there was previous damage to the dock. Commissioner Prada commented that potentially the terminal could have some culpability in the incident, and that he supported the IRC recommendation.

Executive Director Garfinkle commented that the dock was built at the turn of the century, and the builders never envisioned a 900-foot vessel at the dock. Commissioner Carr stated that pilots are concerned at MRZ5 about going too far when landing since the bridge is so close.

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- MOTION:** Commissioner Prada moved to accept the Incident Review Committee’s recommendation regarding the event involving the M/V ARCTIC in Martinez on December 2, 2018, that the Board find for no pilot misconduct, and that the investigations be closed without further action. Commissioner Hoppes seconded the motion.
- VOTE:** YES: Carr, Hayes-White, Hoppes, Nyborg, and Prada.
NO: None.
ABSTAIN: None.
- ACTION:** The motion was approved.

President Connolly resumed as Chair of the Board.

14. 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 the Pilot Safety Committee to develop maritime safety policies and procedures. Possible Board action to direct the Pilot Safety Committee to develop maritime safety policies and procedures.

President Connolly stated that he believed the Board could eliminate this agenda item since safety issues are adequately considered in other Board agenda items. He praised the Board for incorporating into its actions safety best practices, and said that the Pilot Safety Committee could focus on specific safety issues of concern to the Board.

15. Public comment on matters not on the agenda.

There were no comments from the public.

16. Proposals for the next Board meeting agenda.

There were no recommendations for the next meeting agenda.

12. Board review of a written draft of its formal decision on the unintended contact between the M/V ALYARMOUK and a temporary buoy marking the Fleet Week parade boundaries on October 7, 2018. (Board Counsel Eagan)

CLOSED SESSION BEGAN: 11:30 a.m.
OPEN SESSION RESUMED: 12:00 p.m.

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Board Counsel Eagan reported out of closed session that the Board approved the written decision memorializing its prior decision made on September 26, 2019, concerning the October 7, 2018, incident south of Alcatraz Island during Fleet Week involving the M/V ALYARMOUK. He stated Commissioners present during the closed session were Commissioner Hayes-White, presiding, and Commissioners Carr, Nyborg, and Prada. He stated that Commissioner Hoppes was also present as an observer, but he did not participate in the review of the written decision because he was not present at the September Board meeting, and did not participate in the Board decision on that date. He stated that the Board did not change its prior decision, but made edits to the draft decision. He stated that he would be making these edits to the decision, and that Executive Director Garfinkle would circulate the Board's written decision once these edits were made.

17. Adjournment.

- MOTION:** Commissioner Nyborg moved to adjourn the meeting. Commissioner Prada seconded the motion.
- VOTE:** YES: Connolly, Carr, Hayes-White, Hoppes, Nyborg, and Prada.
NO: None.
ABSTAIN: None.
- ACTION:** The motion was approved, and the meeting adjourned at 12:01 p.m.

Submitted by:



Allen Garfinkle
Executive Director