

<p>Meeting Date: January 25, 2024</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

Karen Tynan, President, Public Member
Jennifer Ferrera Schmid, Vice President, Public Member (by phone)
Captain Robert Carr, Pilot Member
Captain Einar Nyborg, Pilot Member
Captain Lynn Korwatch, Dry Cargo Industry Member
Joanne Hayes-White, Public Member
Stephanie Dougherty, Designee of the Secretary of the California State Transportation Agency (CalSTA)

Board Members Absent

Vacant, Wet Cargo Industry Member

Board Staff Present (in person and by phone)

Allen Garfinkle, Executive Director
Matthew Millspaugh, Assistant Director
Dennis Eagan, Board Counsel
Patrick Tuck, Board Counsel (by phone)
Alethea Wong, Licensing and Training Programs Manager (by phone)
Roma Cristia-Plant, Deputy Secretary, Administration and Audits, California State Transportation Agency, on loan to the Board (by phone)

Identified Public Present (in person and by phone)

Captain John Carlier, San Francisco Bar Pilots (SFBP) President and Port Agent; Captain Anne McIntyre, SFBP Business Director; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; and Kevin Baldwin, SFBP General Counsel.

OPEN MEETING AGENDA

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

President Tynan called the meeting to order at 9:41 a.m. Assistant Director Millspaugh called the roll and confirmed a quorum.

2. Public comment on matters on the agenda or not on the agenda.

None.

3. Review and approval of Board meeting and Hearing meeting minutes (President Tynan)

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Board action to approve the minutes from the Board meetings held on November 2, 2023, and December 14, 2023.

Board members were presented with the draft of the minutes from the Board meeting on November 2, 2023, for review. There was no discussion.

MOTION: Korwatch moved to approve the draft minutes of the meeting held on November 2, 2023. Hayes-White seconded the motion.

VOTE: YES: Tynan, Schmid, Carr, Hayes-White, Nyborg, and Korwatch.

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

Board members were presented with the draft of the minutes from the Board meeting on December 14, 2023, for review. There was no discussion.

MOTION: Korwatch moved to approve the draft minutes of the meeting held on December 14, 2023. Commissioner Carr seconded the motion.

VOTE: YES: Tynan, Schmid, Carr, Korwatch, and Nyborg.

NO: None.

ABSTAIN: Hayes-White

ACTION: The motion was approved.

4. President Announcements and Activities (President Tynan)

President Tynan thanked Board Counsel Eagan for his years of service since 2009 to the Board and presented him with a certificate of appreciation. Board Counsel Eagan thanked the Board and commented that at the time of the Cosco-Busan incident in 2007, he became interested in maritime-related issues. Board Counsel Eagan further commented he learned a lot while supporting the Board this past decade, but it's time to officially retire. Executive Director Garfinkle thanked him for his guidance, assistance, and advice. Commissioners Hayes-White and Schmid thanked him for his support, advice and for the numerous learning opportunities he provided them both.

President Tynan reported that Vice President Schmid's term has ended but may be extended up to two months if there is no appointment in the interim, and she would like to be able to thank her in person at the next Board meeting in February.

5. Board Member Announcements and Activities (Board Members)

None.

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6. Directors' Report (Executive Director Garfinkle/Assistant Director Millspaugh)

A) Correspondence and activities since the Board meeting held on December 14, 2023.

- On December 18, 2023, Board staff received notice that licensee Jeremy Lowe was voluntarily surrendering his state license, effective January 1, 2024. He noted that he was entering the Tampa Bay, Florida, pilot training program. He cited the high cost of living in the Bay Area as a principal reason.
- On December 20, 2023, Board staff received a copy of the PMSA *West Coast Trade Report* for December 2023.
- On December 27, 2023, Board staff updated the UCSF Medical Guide online to reflect changes in staffing at UCSF.
- On December 28, 2023, he received a request for a leave of absence for trainee Shuler.
- On December 29, 2023, he provided the Port Agent with the Surcharge Letter for the first Quarter of 2024.
- On January 9, 2024, we conducted an orientation of two new trainees, Carl Johnson and Lucas Shuler. he would like to thank the participating members of SFBP for their contribution to getting these trainees off to a good start.
- Also on January 9 and January 10, 2024, Assistant Director Millspaugh and he conducted interviews for one of the two Associate Government Program Analyst (AGPA) positions.
- On January 17, 2024, Board staff attended the Wednesday Yachting Luncheon series at St. Francis Yacht Club where Captain Anne McIntyre was the featured speaker.
- On January 16, 2024, he received an email from Lavella Wilson, PaCE coordinator at CMA, informing him that while the Combination Course is on the schedule for March 4-8, they are having staffing issues with a simulator operator. She said she would let him know when they have a sim tech secured.
- On January 22, 2024, he had a phone conversation with Dr. Lewis Schlosser, PHD, who is the Chief Psychologist at The Institute for Forensic Psychology, who provides psychological testing on pilot trainee applicants, for Sandy Hook Pilots in New York. While Dr. Schlosser and his associates are not licensed in California, he did provide some valuable insights to the services they provide to Sandy Hook.

B) Report on pilot licensing matters since the Board meeting held on December 14, 2023.

Since the December Board meeting, the Board has issued license renewals to the following Board licensees: Barnum, Carlier, Pullin, Ruff, Stevens, Benedict, and Rogers.

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C) Report on Board surcharges.

Board surcharges collected for the Month of December 2023, were \$775,748.02, comprising the following surcharge amounts:

- Operations Surcharge \$214,956.42
- Pilot Training Surcharge \$ 28,347.84
- Trainee Surcharge \$ 19,445.82
- Pilot Boat Surcharge \$512,997.94

D) Report of Pension Fiduciary.

As of January 1, 2024, we had 84 pensioners.

Surcharge Rate for the Quarter	\$0.05362/gross registered ton
Rolling Look Back Period	July 2022 through June 2023
Monthly Tonnage for October	28,187,508
Surcharge Billing Total	\$1,511,414.21
Administrative Costs for the Month	\$2,426.85
Amount Distributed to Pension Beneficiaries	\$1,508,987.36
Total Monthly Target Rates	\$1,215,097.74
Amount Over/(Under) Target	\$296,316.42

The last COLA increase to the pension was on April 1, 2023.

E) Report on outstanding requirements of Board actions in response to Board determination and direction on Incident Review Committee reports.

None.

F) Report on legislative activities and contractual matters.

Assistant Director Millspaugh reported that Board staff are not currently tracking any legislative matters.

Assistant Director Millspaugh reported the following regarding contractual matters:

SFBP—Trainee and Pilot Continuing Education Programs Support, and Surcharge Audit Support (23M900001)

Contract Expiration: June 30, 2028

The NCB has been completed and the agreement went into effect January 12, 2024.

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California State University Maritime Academy – Trainee Selection Exam Services
Contract Expiration: TBD

Board staff continue to put on hold a new contract with Cal Maritime for Trainee Selection Exam services as the university has not identified staffing for the next simulator exam test component. Cal Maritime also provides a test site for the Trainee Selection Exam written component.

State Controller’s Office –Audit Services - Surcharges
Contract Expiration 12/31/2024: 20M90004-A2

Board staff continue to work with CHP staff and State Controller’s Office (SCO) to finalize an amendment to the current Interagency Agreement (IAA), adding audit services for calendar year 2023, extending the term to 12/31/2024 and increasing the budget by \$59,225, for a total contract budget of \$234,476. The amendment is expected to be completed before the end of February 2024.

State Controller’s Office – Pilot Boat Program Audit
Contract Expiration: TBD

Board staff met with SCO staff on January 18, 2024, and discussed scope of a new IAA, Board staff and SCO staff will continue to work together, reviewing the options for the agreement Scope of Work (SOW) and budget.

Request for Offer – IT Modernization Project Manager (23M900002)
Contract Expiration Date: TBD

The Request for Offer was released on November 17, 2023. Submissions to the RFO are due January 25, 2024, by 2:00pm. CHP staff shall complete an administrative evaluation of the responses received and then Board and Caltrans staff shall proceed with the technical evaluation of the responses. Board staff expect to complete the procurement process by April 2024.

Certified Public Accountant Services to The SFBP Pension Plan (23M900008)
Contract Expiration Date: 6/30/2024

Board staff are working with CHP staff to complete a Service Agreement between Mah & Associates and the Board for Pension Accounting Services. This agreement is expected to be in place by February 1, 2024, and with a term through June 30, 2024. The agreement will provide Pension Program Accounting services to the Board while the Board works towards development of a long-term agreement entered into under the Invitation for Bid process.

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**Certified Public Accountant Services to The SFBP Pension Plan (23M900006)
Contract Expiration TBD**

Board staff are working with CHP staff to develop an Invitation for Bid for Pension Program accounting services. The proposed term of the agreement is three years. The IFB is expected to be released by the end of February 2024 and procurement for services completed before June 30, 2024.

Commissioner Nyborg asked if delays of Non-Competitively Bid (NCB) agreements between SFBP and the Board could be avoided in the future and asked when the next NCB is considered could the current and past NCB agreements be referenced by the BOPC to inform/remind the Department of General Services (DGS) of their previous approval of NCB agreements between the SFBP and the Board. Assistant Director Millspaugh reported this approach has been taken in the agreement currently in development, however with the length of time between agreements and staff/leadership changes at the Department of General Services, the approach did not shorten the development timeframe of the agreement. Commissioner Nyborg asked since SFBP has provided services related to the expired agreement since July 1, 2023, could the SFBP be reimbursed. Assistant Director Millspaugh responded the one avenue known at this point is for SFBP to pursue reimbursement through the Victims Compensation Fund.

Executive Director Garfinkle added that he was concerned about the California State University Maritime Academy’s ability to perform due to lack of staff able to operate and teach the simulation part. He’s not certain there will be staff available to run the simulation during the pilot trainee exam or when pilots attend the Combination Course. Commissioner Korwatch suggested that Director Garfinkle reach out to Cal Maritime’s President, Michael J. Dumont, to discuss options regarding the exam.

7. Port Agent’s Report (Port Agent Carrier)

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

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

- Captain Aune since March 27, 2023

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

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previously granted compensated time off requests, suspending SFBP internal working rules, and calling in off-watch pilots.

He reported that SFBP currently has 53 licensed pilots, and that there were 6 MRP exceptions in December. The shortest rest period was 10.3 hours.

B) Monthly report on SFBP ship piloting business activity.

For the month of December, Port Agent Carlier reported that P/Vs CALIFORNIA, DRAKE, GOLDEN GATE, PITTSBURG, and SAN FRANCISCO were operating normally.

He reported that vessel moves for December 2023 were as follows:

- Bar Crossings: 442
- Bay Moves: 147
- River Moves: 33
- Total Moves: 622
- Gross Registered Tons (GRT): 28.2 million

He also reported that when comparing 2023 vessel move data with the same period in 2022, total moves were up 9.6% and GRT is up 26.4%.

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 this item.

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8. Pilot Evaluation Committee (Captain Robinson)

A) Report on the Pilot Evaluation Committee (PEC) meeting held on January 17, 2024.

On the behalf of PEC Chair, Robinson, Port Agent Carlier reported on the following:

- The PEC met on January 17, 2024, and in attendance were Committee members Captains Bridgman, Ruff, Slack, Wehr, and Robinson.
- Trainees were interviewed and counseled individually in closed session by the PEC members on their progress in the Pilot Trainee Training Program.
- The three active trainees include Barron, Gallo, and Johnson. The range of time in the program for these trainees range from 0.5 month to 4 months. The fourth trainee, Shuler, attended trainee orientation on January 9, 2024, and has requested that he be granted 2 months leave of absence so he can help his spouse recover from surgery.
- Trainees Barron, Gallo, and Johnson are acquiring trips to obtain their First-Class Pilotage endorsement for unlimited tonnage upon San Francisco Bay. They are observing, partly handling, and handling the ship on jobs under the supervision of a licensed pilot.
- 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 February 14, 2024, 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 or off probation or dismiss one or more trainees from the program.

No Action.

C) Possible PEC recommendation as to whether a trainee has, or trainees have successfully completed the Pilot Trainee Training Program. Possible Board action whether to award a Certificate of Completion to a trainee who has completed the Pilot Trainee Training Program.

No Action.

D) Possible recommendation from the Executive Director for the Board to issue a state pilot license to a trainee who holds a Certificate of Completion from the Pilot Trainee Training Program. Possible Board action to accept a recommendation

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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.

No Action.

- E) Review request for a Leave of Absence from Trainee Shuler and possible Board action on request. Possible Board action on a request for a Leave of Absence from Trainee Shuler.**

Director Garfinkle reported Captain Schuler requested leave of absence due to family related issues, further reporting a leave of absence of 30 days or more requires Board approval, and suspension of the pilot trainee stipend. Commissioner Nyborg inquired if the leave would extend the three-year period Shuler has to complete the pilot trainee training program. Director Garfinkle reported that it is his understanding that it does not extend the three-year period. Commissioner Nyborg also added that he appreciates that Trainee Shuler is taking the training program seriously by planning ahead, and that it's not ideal to be distracted while in the Pilot Trainee Training Program.

- MOTION:** Commissioner Nyborg moved to approve Trainee Shuler's request for a leave of absence starting January 10, 2024, not to exceed 60 days (March 9, 2024). Commissioner Hayes-White seconded the motion.
- VOTE:** YES: Tynan, Schmid, Carr, Hayes-White, Nyborg, and Korwatch.
NO: None.
ABSTAIN: None.
- ACTION:** The motion was approved.

9. Reported Safety Standard Violations (Executive Director Garfinkle)

(Reported safety standard violations occurring up to the start of the meeting will be reported on.)

None.

10. 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) Progress report on the June 30, 2023, event involving the M/V EVER LOGIC that was passing the M/V EVER FASHION, which suffered gangway damage as the result of hydraulic interaction. Possible request and Board action on an extension to present this report at the next monthly Board meeting.**

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- B) Progress report on the July 6, 2023, event involving the P/V RUBY PRINCESS, which made unintended contact with Pier 27. Possible request and Board action on an extension to present this report at the next monthly Board meeting.**
- C) Progress report on the July 23, 2023, event involving the M/V NEW HANDY, which made unintended contact with the San Joaquin River Light #39. Possible request and Board action on an extension to present this report at the next monthly Board meeting.**
- D) Progress report on the September 1, 2023, event involving the M/V BOHOL ISLAND, which made unintended contact with the pier at Sacramento, CA. Possible request and Board action on an extension to present this report at the next monthly Board meeting.**

Director Garfinkle reported he is seeking a new chair for the Incident Review Committee (IRC) as Commissioner Schmid’s term has ended. President Tynan reported Commissioner Hayes-White has agreed to chair the IRC.

Director Garfinkle reported he has met with counsel from the Department of Justice (DOJ) regarding the P/V RUBY PRINCESS as part of the investigation. He cited staff workload and awaiting United States Coast Guard responses to Freedom of Information Act requests as some of the reasons for delaying the reports. He requested an extension to present the reports on all four events under IRC review.

Commissioner Carr inquired if the report on the M/V NEW HANDY or other investigations that might be less complex than the P/V RUBY PRINCESS, could be completed ahead of the P/V RUBY PRINCESS. Executive Director Garfinkle reported his process to ensure a thorough investigation was to work toward completion of reports one at a time, however he would consider adjusting the process if possible.

MOTION: Commissioner Hayes-White moved to grant an extension to the Incident Review Committee to present its reports on the M/V EVER LOGIC, P/V RUBY PRINCESS, M/V NEW HANDY, and the M/V BOHOL ISLAND at the Board meeting to be held on February 22, 2024. Commissioner Korwatch seconded the motion.

VOTE: YES: Tynan, Schmid, Carr, Hayes-White, Nyborg, and Korwatch.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

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11. 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.

Director Garfinkle reported five incidents of lost propulsion.

SFBP General Counsel Kevin Baldwin inquired if names of vessels were reported. Director Garfinkle reported that the U.S. Coast Guard had provided names in the past but was no longer providing them. Commissioner Korwach reported that the U. S Coast Guard had changed policy citing the reports were not final and were no longer providing names. Commissioner Nyborg suggested the item no longer needed to be reported on monthly. The suggestion was made the report be included as reference material and cited in the Correspondence section of the Director’s Reports going forward.

12. Status report on the regulatory process for mitigating pilot fatigue (Executive Director Garfinkle)

Director Garfinkle reported the final draft of the Fatigue Regulation package was submitted on January 5, 2024. He added that as of the date of this meeting he has not received questions from the Office of Administrative Law. Director Garfinkle reported if there are no further issues with the package, the regulations would become effective on April 1, 2024.

13. Status report on the Board’s Information Technology Modernization Project. (Executive Director Garfinkle/Assistant Director Millspaugh)

Reported under Agenda Item 6F

14. Board discussion concerning Board of Pilot Commissioners website protocols. Discussion and possible formation of Ad Hoc Committee to review website protocols (Executive Director Garfinkle/Board Counsel Eagan)

No Action, agenda item to remain and be placed on the February 2024 Board Meeting agenda.

15. Report on shipping activity regionally and within the Board’s jurisdiction (Mike Jacob, Pacific Merchant Shipping Association/Captain McIntyre, SFBP)

Mike Jacob reported shipping activity on the West Coast continues to increase with the Port of Long Beach reporting a large increased at the end of 2023. He further reported exports were up 23% but year over year shipping activity despite increases towards the end of 2023, is still down 11% and the industry continues to adjust in a post COVID world. He further

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reported the shipping industry is being affected by international events such as those in the Suez Canal and the drought effecting the Panama Canal. He reported the U.S. Federal Government's taking action to maintain freedom of movement of shipping is reassuring however the industry must remain flexible and learn from the lessons of COVID pandemic regarding managing the supply chain.

Commissioner Tynan reported her appreciation for Mike Jacob's reporting and commented the micro and macro level information affecting local and global shipping is helpful.

17. Comment by public and Board members on matters not on the agenda.

Commissioner Nyborg asked about the status of the Board's Wet Cargo Member. Executive Director Garfinkle reported that the Governor's Office received one application for the Wet Cargo position on the Board.

Director Garfinkle reported an application for Wet Cargo seat has been received by the Governor's Office and the applicant, Roy Mathur, was in attendance as a member of the public. Director Garfinkle introduced Mr. Mathur to the Board.

President Tynan requested a short recess.

Recess began at 10:59 a.m.

Returned to open session at 11:10 a.m.

Closed session began at 11:10 a.m.

16. Closed session for the Board to confer with legal counsel regarding potential significant exposure to litigation against the Board by a currently licensed pilot. (Dennis Eagan/ Board Counsel/Patrick Tuck, Deputy Attorney General)

The Board is authorized to discuss this matter in a closed session pursuant to the Open Meeting Act, Government Code section 11126, subdivision (e)(1) and (e)(2)(B).

This agenda item was discussed during closed session.

Returned to open session at 12:59 p.m.

18. Proposals for the next Board meeting agenda. (President Tynan)

None.

19. Adjournment.

President Tynan adjourned the meeting at 1:00 p.m.

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Submitted by:



Allen Garfinkle
Executive Director