

<p>Meeting Date: February 22, 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
 Captain Robert Carr, Pilot Member
 Captain Einar Nyborg, Pilot Member
 Captain Lynn Korwatch, Dry Cargo Industry Member (by phone)
 Joanna Hayes-White, Public Member
 Stephanie Dougherty, Designee of the Secretary of the California State Transportation Agency (CalSTA)

Board Members Absent

Jennifer Ferrera Schmid, Vice President, Public Member
 Vacant, Wet Cargo Industry Member

Board Staff Present (in person and by phone)

Allen Garfinkle, Executive Director
 Matthew Millspaugh, Assistant Director
 Patrick Tuck, Board Counsel
 Alethea Wong, Licensing and Training Programs Manager
 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 Captain Paul Ruff, SFBP.

OPEN MEETING AGENDA

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

President Tynan called the meeting to order at 10:00 a.m. Licensing and Training Programs Manager Wong called the roll and confirmed a quorum.

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

None.

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

Board action to approve the minutes from the Board meeting held on January 25, 2024.

Board members were presented with the draft meeting minutes from the Board meeting on January 25, 2024, Commissioner Hayes-White requested a minor edit. There was no further discussion.

MOTION: Commissioner Nyborg moved to approve the draft minutes of the meeting held on January 25, 2024, as amended. Commissioner Hayes-White seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

4. President Announcements and Activities (President Tynan)

President Tynan announced that Vice President Schmid was not able to attend, and Vice president Schmid requested President Tynan share her comments on her behalf. Vice President Schmid thanked everyone for the opportunity to work together including the staff and pilots of the SFBP and Mr. Jacob. She thanked Board staff, especially Executive Director Garfinkle, Deputy Secretary Cristia-Plant, and former Board Counsel Eagan, for their continuous efforts in promoting safety on the waters under the BOCP's jurisdiction.

5. Board Member Announcements and Activities (Board Members)

None.

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

A) Correspondence and activities since the Board meeting held on January 25, 2024.

Executive Director Garfinkle reported on the following:

- On January 29, 2024, Board staff received a copy of the PMSA *West Coast Trade Report* for January 2024.
- On February 1, 2024, he and Assistant Director Millspaugh attended a CalSTA Leadership Conference in Sacramento.
- On February 3, 2024, Board staff was notified by Admiral Johnston's son that the Admiral had passed away on January 25, 2024.

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- On February 6, 2024, Board staff was notified that Captain Guy Kleess, a retired licensee, passed away on January 29, 2024.
- On February 7, 2024, Board staff received the U.S. Coast Guard Significant Port Safety and Security cases for December 2023 and January 2024. For December, there were two incidents – on December 2, 2023, a foreign flag container vessel experienced a loss of propulsion while transiting SF Bay. Vessel transited to Anchorage 9 with a two-tug escort. Class attended; case closed. The second incident was on December 4, 2023, where a foreign flag container ship experienced a loss of pilot house main engine control while at Anchorage 9. Vessel conducted repairs, class surveyor attended, case closed. For January, there was one loss of steering on January 16, 2024, in which a tank ship was unable to control the vessel from the wheelhouse. The vessel’s starboard rudder feedback unit had a failed limit switch that caused the vessel to lose steering. A class surveyor attended and witnessed satisfactory operation from the wheelhouse. Case closed.
- On February 8, 2024, he attended the Harbor Safety Committee meeting for February, held in the Port of Oakland. At this meeting, USCG Captain of the Port, Captain Lam, recognized licensees Captain William Benedict and Captain John Meyer for their part in the rescue of a kite surfer swept out of the Golden Gate as nightfall approached. Also on February 8, 2024, Board staff received a request from Dr. Robert Kosnik.
- Medical Director at UCSF Occupational Health Services, soliciting our support for a grant proposal to develop a training programs and fund positions for Community Health Educators specializing in climate resilience. He was seeking support from the Commission and pilots to have trainees (and pilots) participate in a focus group to help define the impact of climate change on their work. We were also provided with the “project narrative”. Executive Director Garfinkle responded with a letter of support for the proposal.
- Also on February 8, 2024, he and Assistant Director Millspough attended a meeting with a representative from the State Controller’s Office to review the draft audit findings from the 2021 surcharge audit.
- On February 9, 2024, he attended a meeting with the attorney for the P/V RUBY PRINCESS, along with Licensee Dustin Slack and his attorney, to review the Voyage Data Recorder (VDR) information from the morning of the incident. The meeting lasted for three hours and was very productive.
- On February 13, 2024, he sent a letter to Captain Greger stating that the Board was not renewing his license under section 1141 of the Harbors and Navigation Code.

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- On February 14, 2024, he received an email from Kevin Hull, a senior staff attorney with the Office of Administrative Law, informing him of some additional issues with our Fatigue Rulemaking package, requesting that he respond to them by close of business on Friday, February 16, as final review of the package was scheduled to take place Tuesday, February 20th. On February 16, he provided Mr. Hull with several requested documents as well as revisions to some previously provided documents.
- On February 15, 2024, Board staff received a letter from the Department of Resources Recycling and Recovery stating that, after reviewing the Board’s State Agency Reporting Center (SARC) report, the CalRecycle’s Jurisdiction and Agency Compliance and Enforcement Branch (JACE) staff determined that our report indicates compliance with the law for 2022.
- On February 20, 2024, he received another email from Kevin Hull, this time stating that our Fatigue Rulemaking package appears to be in order. He was hopeful that notice of approval will come shortly.
- On February 20, 2024, he received a letter from Trainee Lucas Shuler informing the Board that Trainee Shuler’s family issues are forcing him to reconsider his ability to return to training anytime soon and he is resigning from the program.
- On February 21, 2024, he received an email from Tony Brower, an agent with General Steamship. Mr. Brower was forwarding an estimate for repairs to the vessel M/V BOHOL ISLAND, totaling \$4,661.00 and inquired if the pilots would accept the invoice for repairs. This email resulted in several phone conversations about the nature of the relationship between the Commission and the pilots, and the relationship between the pilots and ship owners.
- On February 21, 2024, Board staff received a copy of the PMSA *West Coast Trade Report* for February 2024.

B) Report on pilot licensing matters since the Board meeting held on January 25, 2024.

Since the January 2024 Board meeting, the Board has issued license renewals to the following Board licensees: Captains Lingo, Stultz, and Hirschfeld.

C) Report on Board surcharges.

Executive Director Garfinkle reported the SFBP wired \$815,199.62 to the Board for surcharges collected in January 2024, as itemized as follows:

- Board Operations Surcharge: \$235,696.92
- Continuing Education Surcharge: \$ 31,808.55

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- Pilot Trainee Surcharge: \$ 20,293.40
- Pilot Boat Surcharge: \$527,400.75

D) Report of Pension Fiduciary.

As of February 1, 2024, there are 84 pensioners.

Surcharge Rate for the Quarter	\$0.04869/gross registered ton
Rolling Look Back Period	October 2022 through September 2023
Monthly Tonnage for October	26,595,536
Surcharge Billing Total	\$1,294,936.73
Administrative Costs for the Month	\$706.85
Amount Distributed to Pension Beneficiaries	\$1,294,229.88
Total Monthly Target Rates	\$1,215,097.74
Amount Over/(Under) Target	\$79,838.99

The last COLA increase 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.

Legislative Report:

Board staff are not currently tracking any legislation.

Contracts Report:

**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**

The State Controller’s Office (SCO) Contracts staff have determined they will move forward with an amendment to the expired Inter Agency Agreement (IAA) and are

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requesting a new IAA. Board staff met with SCO staff regarding development the Scope of Work and Budget for a new IAA. The new IAA will provide funding for completion of the 2022 audit, and incorporate completion of the audits for 2023-2027. Board staff have begun work on the SOW and will continue to work with SCO to develop a final draft for internal approvals within SCO, BOPC and CHP, with the goal of having the IAA in place by early April 2024

State Controller’s Office – Pilot Boat Program Audit

Contract Expiration: TBD

Board staff have met with the State Controller’s Office (SCO) regarding the SOW for the Pilot Boat Program Audit. The SCO has provided examples of Performance Audits which include onsite field visits, review of policies and procedures as well as documents pertaining to expenditures towards the build of new pilot vessels. Board staff are reviewing these scopes of work to determine the SOW to be developed. BOPC staff plan to submit a draft to the SCO for review in early March 2024.

Request for Offer – IT Modernization Project Manager (23M900002)

Contract Expiration Date: TBD

The Request for Offer for Project Management services for PAL stages 2-4 closed on January 25, 2024. The BOPC received six submissions. Administrative review of the submissions has been completed. Board and Caltrans staff are currently completing the technical review of the RFOs. After selection of an awardee, 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 California Highway Patrol (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 March 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 under the Invitation for Bid process.

Certified Public Accountant Services to The SFBP Pension Plan (23M900006)

Contract Expiration TBD

Board staff are working with California Highway Patrol staff to develop an Invitation for Bid (IFB) 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.

Report on Objective and Key Results:

In 2023, the Governor requested all Agencies and associated departments, commissions, boards, etc. develop Objectives and Key Results a.k.a. OKRs. The OKRs are associated

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with high priority projects and goals for various departments, and CalSTA has been a leader among agencies in utilizing the OKR process to move various projects forward tied to CalSTA’s “Core 4” which includes supporting projects and goals related to Climate, Economic Growth, Diversity, and Safety. The 2023 BOPC staff reported to CalSTA on four OKRs, including the Pilot Fatigue Regulations (Safety), The IT Modernization Project, Pilot Boat Regulations (Climate), and Diversifying Licensed Pilots (Diversity). Of the four OKRs from 2023, for 2024 Board staff are carrying over three OKRs, including the IT Modernization Project, Pilot Boat Regulations, and Diversifying licensed pilots.

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

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

Port Agent Carlier reported that the following pilots were absent for medical reasons (AFMR):

- Captain Aune since March 27, 2023
- Captain Teague since February 14, 2024

Port Agent Carlier reported the SFBP continually monitors the dispatch list for possible 12-hour minimum rest period (MRP) exceptions. For any potential exception likely to result in a rest period of less than 10 hours, SFBP will ensure that mitigating measures are enacted. Mitigating measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings or committee assignments, cancelling previously granted compensation time off, deferring scheduled training sessions, or calling in off-watch pilots.

Port Agent Carlier reported currently there are 53 licensees on the SFBP roster.

In January, there were 5 MRP exceptions, with the shortest rest period being 10 hours.

B) Monthly report on SFBP ship piloting business activity.

For the month of January, Port Agent Carlier reported normal operations for P/V CALIFORNIA, P/V DRAKE, P/V GOLDEN GATE, P/V PITTSBURG, and P/V SAN FRANCISCO.

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Port Agent Carlier reported vessel moves for January 2024 were as follows:

- Bar Crossings: 451 moves
- Bay Moves: 136 moves
- River Moves: 38 moves
- Total Moves: 625 moves
- Gross Registered Tons (GRT): 26.6 million

He also reported that when comparing 2024 year-to-date vessel move data with the same period in 2023, total moves were up 7.2% and GRT was up 31%.

- 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.**

None.

8. Pilot Evaluation Committee (Captain Robinson)

- A) **Report on the Pilot Evaluation Committee (PEC) meeting held on February 14, 2024.**

PEC Chair Captain Robinson was absent. Committee member Captain Ruff reported on the following:

- The PEC met on February 14, 2024, and in attendance were Committee members Captains 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 1.5 month to 5 months.
- 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. Trainees Barron and Gallo are actively testing for pilotage 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 March 20, 2024, at 7:30 a.m. at the Board office.

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- 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.**

None.

- 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.**

None.

- 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 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.**

None.

- 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.**

Executive Director Garfinkle reported that trainee Schuler withdrew from the program due to personal issues. Commissioner Carr suggested that the Board consider adding yet another trainee in addition to filling Captain Schuler's position in the training program. Executive Director Garfinkle stated that it will be placed on the March Board meeting agenda.

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.

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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.**
- 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.**

Executive Director Garfinkle thanked Vice President Schmid for her work as the Incident Review Committee (IRC) chair and reported Commissioner Hayes-White will be the new IRC chair. He added that it is challenging focusing on more than one investigation at a time, and the IRC requests the Board grant the IRC extensions for all four investigations. He reported on the following:

- Executive Director Garfinkle met with counsel representing the P/V RUBY PRINCESS’ and reviewed the Voyage Data Recorder. Audio was not accessible due to confidential reasons. Captain Slack was present and provided commentary, which was helpful.
- The agent for M/V BOHAL provided the invoice for damages and inquired who will cover the cost. Executive Director Garfinkle explained the process of which party is responsible for payment.
- Executive Director Garfinkle does not anticipate IRC reports for M/V NEW HANDY or M/V BOHAL ISLAND to be complete by the March 2024 Board meeting, but IRC reports for P/V RUBY PRINCESS and M/V EVER LOGIC may be available.

MOTION: Commissioner Carr moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V EVER LOGIC, P/V RUBY PRINCESS, M/V NEW HANDY, and M/V BOHAL ISLAND at the Board meeting to be held on March 28, 2024. Commissioner Hayes-White seconded the motion.

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

ACTION: The motion was approved.

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

Executive Director Garfinkle reported the Pilot Fatigue regulations are progressing and he submitted revised documents per the Office of Administrative Law's (OAL) requests. He noted working with the OAL attorneys was helpful. He expects the regulations to be in effect on April 1, 2024.

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

Executive Director Garfinkle reported there is no additional information to report on this agenda item and the information was already reported during the contracts report. Assistant Director Millspaugh reported that Board staff is working on procuring tablets for Board members to minimize the need for binders with printed meeting documents.

13. 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)

Board Counsel Tuck reported the researched website protocols. Several state commissions have a two-person ad hoc committee that review documents prior to distributing to the public. He added current documents do not have to be on website. He suggested each month a committee could review which documents may be posted and determine what documents need to be redacted or excluded from the website. He will do more research on possible solutions.

Executive Director Garfinkle confirmed for Commissioner Carr that having an ad hoc committee adds additional work which the Board members would need to be a part of. Assistant Director Millspaugh reported a concern that some documents are sent to Board staff to be posted to the website shortly before Board meetings and timely review by a committee may not be feasible. President Tynan reminded the Board to be mindful of privacy laws.

SFBP Business Director Captain McIntyre agreed that a committee would be helpful especially when reviewing financial information for the pilot boats, which may help with the creation of guidelines.

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

Mr. Jacob reported that issues within the shipping industry have not been resolved yet. Cargo owners have rerouted shipping routes from U.S. West Coast ports and currently he is not sure what the numbers look like. Traditionally, PMSA sees surges of ship movement following the start of the new year. He expects the ports of Los Angeles and Long Beach to see an increase in cargo.

Mr. Jacob reported there are various California Air Resources Board rules affecting harbor craft and shipping. On the vessel electrification rule, the regulations are fully enforced starting on February 1, 2024, but there are still legal questions on the application of the rules which have yet to be decided. He added if a shipping company has 10 – 25 ships call to a California port, there is less incentive to continue doing business at that port, therefore customers are more likely to move their business away from California ports.

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

None.

15. 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).

President Tynan called for a short break.

Recess began at 11:36 a.m.

Meeting resumed at 11:45 a.m.

Closed session began at 11:45 a.m.

Returned to open session at 12:55 p.m.

President Tynan reported that no action was taken in closed session.

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

- Commissioner Nyborg suggested a second closed session to discuss the AFMR report.
- Commissioner Carr suggested adding an agenda item to direct the Executive Director to contact the next two trainee candidates to join the Pilot Trainee Training Program.
- Commissioner Hayes-White suggested an agenda item to discuss the Board start meeting time.

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- Executive Director Garfinkle suggested an agenda item to vote for a new Board Vice President, and another agenda item to form an ad-hoc committee to review the status of Cal Maritime's ability to provide the next Trainee Selection Exam.

18. Adjournment.

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

Submitted by:



Allen Garfinkle
Executive Director