

State of California

Board of Pilot Commissioners

for the Bays of San Francisco, San Pablo, and Suisun

Draft Minutes of the Meeting of the Board of Pilot Commissioners held on August 22, 2024, at 9:30 a.m.

Members of the public are encouraged to participate in meetings of the Board, either in person or via telephone.

Location:

Board of Pilot Commissioners
660 Davis Street
San Francisco, California 94111

To participate via telephone please use:

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**Board of Pilot Commissioners
for the Bays of San Francisco, San Pablo, and Suisun
Board Meeting
Thursday, August 22, 2024, at 9:30 a.m.**

MEETING AGENDA

ATTENDANCE

Board Members Present (in person and by phone)

Joanne Hayes-White, Vice President, Public Member
Captain Robert Carr, Pilot Member
Captain Lynn Korwatch, Dry Cargo Industry Member
Captain Einar Nyborg, Pilot Member
Sam Rodriguez, Public Member
Stephanie Dougherty, Designee for the Secretary of the California State Transportation Agency (CalSTA)

Board Members Absent

Karen Tynan, President, Public Member
Vacant, Wet Cargo Industry Member

Board Staff Present (in person and by phone)

Allen Garfinkle, Executive Director
Matthew Millsbaugh, Assistant Director
Alethea Wong, Licensing and Training Programs Manager
Greg Shepherd, Records Management and Program Support Coordinator
Patrick Tuck, Board Counsel

Identified Public Present (in person and by phone)

Captain John Carlier, San Francisco Bar Pilots (SFBP) President and Port Agent
Kevin Baldwin, SFBP General Counsel
Captain Anne McIntyre, SFBP Business Director
Roma Cristia-Plant, former BOPC Assistant Director (by phone)
Mike Jacob, Pacific Merchant Shipping Association (PMSA) President and General Counsel
Jennifer Cohen, PMSA Vice President of Governmental Affairs
Captain Paul Ruff, SFBP
Captain William Benedict, SFBP

OPEN MEETING

1. Call to Order and Roll Call (Vice President Hayes-White)

Vice President Hayes-White (for President Tynan) called the meeting to order at 9:38 a.m. Licensing and Training Programs Manager, Alethea (Ally) Wong called the roll and confirmed a quorum.

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

Roma Cristia-Plant, former BOPC Assistant Director, noted that she was participating remotely by phone.

3. Review and approval of Board meeting and meeting minutes (Vice President Hayes-White)

Vice President Hayes-White (for President Tynan) thanked the Board Staff for the furniture and technology upgrades in the office, especially the new iPads, noting that today's meeting marks the first time that Board documents were presented digitally, instead of in binders.

Commissioner Nyborg requested a non-substantive change to the minutes.

MOTION: Commissioner Korwatch moved to approve the draft July 25, 2024; Board meeting minutes as amended. Commissioner Nyborg seconded the motion.

VOTE: YES: Hayes-White, Carr, Korwatch, Nyborg, Rodriguez.

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

4. President Announcements and Activities (Vice President Hayes-White)

Vice President Hayes-White announced that Present Tynan was away and that she would be stepping in as Chair for this meeting.

5. Board Member Announcements and Activities (Board Members)

Commissioner Carr announced that he had attended a meeting with Jennifer Ferrera Schmid, Chair of the Ad Hoc Committee to Review the Pilot Trainee Training Program Selection Exam, and two Puget Sound Pilots (PSP) on August 20, 2024, to discuss their experience working with Dainis & Company, Inc., a psychometric firm that worked on the PSP selection exam.

Commissioner Nyborg announced that he had met with the Gartner team on August 7, 2024, to answer questions and provide feedback related to the Board's Information Technology Modernization Project (ITMP).

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

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

Executive Director Garfinkle reported on the following:

- On July 25, 2024, Board staff received a copy of the PMSA *West Coast Trade Report* for July 2024.
- On July 26, 2024, the Notice of Rulemaking for the Board of Pilot Commissioners (BOPC/Board) Pilot Boat regulations were published in the California Regulatory Notice Register, officially commencing the 45-day comment period, which closes at 5:00 p.m., September 13, 2024.
- Also on July 26, 2024, Executive Director Garfinkle had a phone conversation with Justin Franzen, Terminal Manager of Terminal 8 (RCH22) in Richmond. Executive Director Garfinkle stated that Franzen is aware of the issues with boarding ships from his terminal and will work on providing a safe solution.
- On August 1, 2024, Executive Director Garfinkle attended a meeting of the Ad Hoc Committee to Review the Pilot Trainee Training Program Selection Exam.
- Also on August 1, 2024, Licensing and Training Programs Manager Wong provided the 2024 retirement survey to the Port Agent for distribution to all licensees.
- Also on August 1, 2024, Executive Director Garfinkle confirmed a tour of the Maritime Museum collection for Board staff on August 29, 2024, at 1:00 p.m. There is a limit of ten persons. Two slots are available for Board members who may want to attend.
- On August 5, 2024, Board staff sent a letter supporting Assembly Bill (AB) 1296 to Assembly Member Grayson and a letter supporting Senate Bill (SB) 295 to Senator Dodd.
- On August 8, 2024, Board staff were notified by Lavella Wilson, the continuing education coordinator at California State University Maritime Academy (CMA), that they have not secured a simulator operator for the fall combination course.
- On August 13, 2024, Assistant Director Millspaugh, Licensing and Training Programs Manager Wong, and Executive Director Garfinkle attended a meeting with the California Department of Human Resources' (CalHR) psychometric staff. It was a productive meeting, and Board staff were pleased with CalHR's willingness to adapt their exam services to whatever role the Board desires them to have, including working alongside outside psychometricians.
- Also on August 13, 2024, Board staff sent a letter to the California State University Board of Trustees supporting the merger between CMA and California Polytechnic State University (Cal Poly) San Luis Obispo (SLO).
- On August 14, 2024, Executive Director Garfinkle attended the open session of the Pilot Evaluation Committee (PEC) meeting.
- On August 16, 2024, Board staff met with Sheri Tonn, the President of the Washington State Board of Pilot Commissioners, and Jaimie Bever, the Board's Executive Director, to learn more about their recent trainee exam experience and preparation.
- On August 20, 2024, Board staff met with Captains Sandra Bendixen and John Scragg, Puget Sound Pilots (PSP), and Jennifer Schmid, Chair of the Ad Hoc Committee to Review the Pilot Trainee Training Program Selection Exam, in a meeting to review PSP's experiences with the 2024 Washington State selection exam.

- Finally, Executive Director Garfinkle noted that the Board has some furniture to surplus. He added that Board staff have exhausted state disposal options.

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

Executive Director Garfinkle reported, since the Board meeting of July 25, 2024, that the Board has issued license renewals to the following Board licensees: Captains Starnitzky, Burns, Laakso, and Merritt.

C. Report on Board surcharges.

Executive Director Garfinkle reported that the SFBP wired \$917,274.84 to the Board for surcharges collected in July 2024, itemized as follows:

- Operations Surcharge: \$ 246,146.07
- Pilot Training Surcharge: \$ 31,868.70
- Trainee Surcharge: \$ 47,552.41
- Pilot Boat Surcharge: \$ 591,707.66

D. Report of pension fiduciary.

Executive Director Garfinkle reported that as of July 30, 2024, there were 85 pensioners.

- Surcharge Rate for the Quarter: \$ 0.04448 / gross registered ton
- Rolling Look Back Period: April 2023 through March 2024
- Monthly Tonnage for July: 26,880,281
- Surcharge Billing Total: \$ 1,195,634.96
- Administrative Costs for the Month: \$ 2,522.85
- Amount Distributed to Pension Beneficiaries: \$ 1,193,112.11
- Total Monthly Target Rates: \$ 1,242,335.91
- Amount Over/(Under) Target: (\$ 46,700.95)

The last Cost of Living Adjustment (COLA) increase to the pension was April 1, 2023.

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

Executive Director Garfinkle reported the following outstanding items:

- Captain Slack has yet to address the membership of SFBP on lessons learned on the issue of passing the conn (a term of art meaning the conduct of a vessel) to a mariner who does not hold the appropriate state or federal pilot license.

Captain Slack had planned on addressing the membership in August, but that General Membership meeting was cancelled. He will be training at Port Revel during the September General Membership meeting and will be away on a pre-planned trip during the October General Membership meeting. As a result, he

requested that he be allowed to present at the November General Membership meeting.

F. Report on legislative activities and contractual matters.

Before beginning his report on legislative and contractual matters, Assistant Director Millspaugh thanked the Board staff for their recent contributions:

- Licensing and Training Manager Wong for her tremendous support of the Board's day-to-day operations, including training Administrative Coordinator Mari McNeill to handle the various administrative tasks of the Board.
- Administrative Coordinator Mari McNeill for her work coordinating the delivery of new office furniture and surplus old office furniture. In addition to her regular duties, she also assisted with the setup of the new iPads.
- Records Management and Program Support Coordinator Greg Shepherd for getting the iPads ready for the Board Members to use today.

Legislative Activities

For legislative matters, Assistant Director Millspaugh reported the following:

AB 1122 Baines/Villapudua

Board staff continue to monitor AB 1122; however, the bill continues to include language exempting pilot vessels used for transporting a maritime pilot in furtherance of their official duties and Board staff will no longer report on this bill unless there is a change that will affect the Board.

SB 295 Dodd/Grayson

This bill authorizes changes to Harbors and Navigation Code (HNC) section 1159.1 and expands the authority of the Board to expend funds from the Board's Special Fund for pilot boats. This bill passed out of the Assembly Committee on Appropriations and was ordered for its third reading. Board staff continue to monitor SB 295.

AB 1296 Dodd/Grayson

This bill prohibits a state regulation from requiring or compelling licensed pilots, collectively known as the San Francisco Bar Pilots (SFBP), to replace certain pilot boats until a pilot boat reaches the end of its useful service life. The bill requires that the useful service life of a pilot station boat be between 25 and 35 years from commission date. This bill passed out of the Senate on Appropriations, received its second reading, and was ordered for its third reading. Board staff continue to monitor AB 1296.

Contractual Matters

California State University Maritime Academy (CMA) – Trainee Selection Exam Services

Board staff continue to put on hold the development of a new contract with CMA for Trainee Selection Exam services as CMA has not identified staffing for development the next simulator exam test component.

BOPC staff are researching alternative options for the exam test component and as necessary will pursue development of a Request for Proposal (RFP) for services with a private entity.

State Controller’s Office (SCO) – Audit Services – Surcharges (23M900009)

The draft agreement between the Board and SCO has been finalized and remains under review by the SCO for signature.

State Controller’s Office (SCO) – Pilot Boat Program Audit

BOPC staff are meeting with SCO staff on 8/28/2024 to review options for the audit scope of work, this will directly inform the development of the scope of work for a new Inter-Agency agreement between the Board and SCO for the Pilot Boat Program Audit. Staff are anticipating development of the new Inter Agency Agreement will be completed by 12/2024.

Pilot and Pilot Trainee Fitness Assessment with the University of California San Francisco (UCSF) (21M900004)

A one-year agreement between the Board and UCSF with a term date of 7/1/2024 -6/30/2025 has been drafted and the agreement is under review for signature with UCSF.

Administrative Services with the California Highway Patrol (CHP): (24M900000)

A new three-year Inter Agency Agreement between the Board and California Highway Patrol (CHP) has been finalized. The term of the agreement runs July 1, 2024 - June 30, 2027, with a three-year budget totaling \$457,000.

Information Technology (IT) Support Services, California Department of Transportation (23M900000-1)

The Board currently has a three-year agreement with Caltrans for IT support services related to the ITMP. Through an approved Budget Change Proposal (BCP), the Board received an augmentation to its budget of \$54,419.00 to receive these services in Fiscal Year (FY) 25/26. An amendment to the contract to extend the term to 6/30/26 and increase the budget by \$54,419.00 has been developed and is with Caltrans for review and signature.

Budget Act of 2024 – State Operations Reductions

The Budget Act of 2024 called for reductions in state operations costs by 7.95%. Starting in FY 2024-25 and ongoing, agencies and departments’ state operations budgets are to be

reduced by 7.95 percent, which includes, but is not limited to, personal services, operating expenses and equipment, and consulting and professional services funded through General Fund and/or Other Funds. These reductions apply to almost all agencies and departments with limited exceptions. Board staff are working with the Department of Finance to evaluate proposed reductions to the BOPC budget and if any exemptions may apply to the BOPC.

Captain Anne McIntyre, SFBP Business Director, inquired if the new contract with UCSF (Contract Number: 21M900004) would include any performance measures such as turnaround time. Assistant Director Millspough noted that this was a bridge to a longer-term agreement that could include additional changes, such as performance measures, if desired.

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

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

The Port Agent, Captain Carlier, reported that, as of July 2024, the following pilots are Absent for Medical Reasons (AFMR) and their initial absence dates:

- Captain Teague since February 14, 2024
- Captain Ruff since May 8, 2024

Captain Carlier reported the SFBP continuously 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. These measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings or committee assignments, cancelling previously granted compensation time requests, deferring scheduled training sessions, or calling in off-watch pilots.

Captain Carlier reported there are currently 52 licensees on the SFBP roster.

In July, there were 15 MRP exceptions, with the shortest rest period being 10 hours.

B. Monthly report on SFBP ship piloting business activity.

For July 2024, Captain Carlier reported normal operations for all pilot vessels, which includes the CALIFORNIA, DRAKE, PITTSBURG, and SAN FRANCISCO. Pilot Vessel (P/V) GOLDEN GATE was in the shipyard for scheduled warranty and maintenance work from 7/19/2024 – 8/16/2024.

Captain Carlier reported vessel moves for July 2024 were as follows:

- Bar Crossings: 440
- Bar Moves: 126
- River Moves: 44
- Total Moves: 610
- Gross Registered Tonnage (GRT): 26.9M

Captain Carlier also reported that year-over-year, when comparing the same period in 2023 to the same period in 2024, total moves are up 0.5% and GRT is up 9.3%.

C. Monthly confidential written report of licensed pilots who have been Absent for Medical Reasons (AFMR). The Board may go into closed session to discuss the contents of the Port Agent's confidential report and other relevant confidential medical information, as authorized by Harbors and Navigation Code (HNC) section 1157.1.

Nothing to report.

Commissioner Korwatch requested that Port Agent Carlier's signature be redacted from Board documents.

8. Pilot Evaluation Committee (Committee Chair)

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

PEC Chair Ruff presented the PEC Chair's Report on the following:

- The PEC met on August 13, 2024. The members present were Captains Wehr, Slack, Bridgman, and Ruff.
- Executive Director Garfinkle joined the committee in open session.
- Major concerns about CMA's ability to provide adequate personnel for administering the simulator exam. The PEC is considering alternatives to CMA including the Pacific Maritime Institute (PMI), the Maritime Institute of

Technology and Graduate Studies (MITAGS) or Orange Coast College (OCC) for simulator test development.

- There are five active trainees in the program including Gallo, Barron, Johnson, Ajax, and Johnston. The amount of time each trainee has spent in the program ranges from three and a half months to eleven months.
- All five trainees are acquiring trips to obtain their first-class pilotage endorsement for unlimited tonnage on the San Francisco Bay. They are observing, part handling, and handling ships under direct supervision of a licensed pilot.
- Captain Gallo has completed the federal requirements, charts, etc. Captain Barron is waiting to hear from the United States Coast Guard (USCG) about his last license endorsement test, which included the route to Sacramento. The other three are accumulating rides for the federal pilotage.
- In closed session, all trainees were individually interviewed and counseled on their progress in the training program. Time was spent answering their questions and addressing their concerns.
- All trainees are meeting recommended benchmarks and are progressing at their own rate.
- The next PEC meeting is scheduled for Wednesday, September 18, 2024, at 7:30 a.m. at the Board office.
- Board Counsel Tuck asked that the Chair identify himself at future meetings before giving the PEC report, for those attending by phone.

B. Possible PEC recommendation to appoint new committee member to replace Captain Aune, who retired recently.

PEC Chair Ruff reported that the Committee authorized him to recommend to the Board that Captain Daniel Bridgman be appointed to the Committee for a four-year term.

MOTION: Commissioner Nyborg moved that the Board appoint Captain Daniel Bridgman to a four-year appointment to the Pilot Evaluation Committee.

Commissioner Korwatch seconded the motion.

VOTE: YES: Hayes-White, Carr, Korwatch, Nyborg, Rodriguez.

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

Commissioner Carr requested that the Board consider allowing the PEC Committee Chair to submit a written report only, rather than being required to attend each Board meeting to report in person. This would save the Committee Chair time and allow him to focus on other duties.

C. Possible PEC recommendation to place one or more Pilot Trainee Training Program trainees on probation or dismiss one or more trainees from the program.

Nothing to report.

D. Possible PEC recommendation as to whether a trainee has, or trainees have successfully completed the Pilot Trainee Training Program.

Nothing to report.

E. 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.

Nothing to report.

9. Reported Safety Standard Violations (Executive Director Garfinkle)

Executive Director Garfinkel reported that no new safety standard violations were reported during the preceding period.

10. Incident Review Committee (IRC) —Reportable Piloting Events (Executive Director Garfinkle/Vice President Hayes-White)

A. Incident Review Committee (IRC) report on the June 30, 2023, event involving the MOTOR VESSEL (M/V) EVER LOGIC that was passing the M/V EVER FASHION, which suffered gangway damage as the result of hydraulic interaction.

Vice President Hayes-White recused herself from the Board and assumed her position on the IRC. Commissioner Rodriguez chaired the meeting during this agenda discussion. Vice President Hayes-White announced that as an IRC member she would not be voting on any motion related to this IRC report.

Executive Director Garfinkle presented the findings of the IRC as found in the IRC report attachment for agenda item 10A, stating:

- On the afternoon of June 29, 2023, Captain Douglas Alfors and trainee Captain John Meyer boarded the containership M/V EVER LOGIC (hereinafter EVER LOGIC) at the San Francisco Sea Buoy, bound for the Port of Oakland, Berth 35. The EVER LOGIC was to dock “portside to” the pier, requiring it to turn around prior to entering the berth.
- The M/V EVER FASHION (hereinafter EVER FASHION) was moored portside to the pier at Berth 35 and was scheduled to depart for sea at 1700 hours, with the EVER LOGIC taking their berth after they departed. Captain Mark Barnum was aboard the EVER FASHION awaiting their departure.
- Captain Alfors’ plan was to enter Oakland Outer Harbor (OOH), proceed past the EVER FASHION to the OOH turning basin, turn the vessel, and then await the departure of the EVER FASHION.

- As the EVER LOGIC passed Berth 35 inbound, hydraulic interaction between the vessels caused the EVER FASHION to surge, damaging the EVER FASHION's gangway.
- While the EVER LOGIC was turning around, the pilot on board the EVER FASHION notified Captain Alferts that, due to the damaged gangway, there would be a delay in departing of one to two hours. Given that delay, Captain Alferts decided to proceed to anchor to await the departure.
- There were no injuries to persons, and no damage other than the gangway.

Commissioner Nyborg expressed the view that there was no need to go into closed session to discuss the IRC report.

Commissioner Rodriguez asked Executive Director Garfinkle to clarify the IRC recommendations. Executive Director Garfinkle clarified that the recommendations from the IRC are twofold: 1) that the Board find for no misconduct for Captain Alferts, and 2) that this case be closed with no other action.

Commissioner Nyborg noted that this is common but difficult job which can be challenging, especially when trying to balance speed and proximity to moored vessels. Commissioner Nyborg noted that the SFBP has proactively increased the size of tugs used for some maneuvers to address these challenges.

MOTION: Commissioner Carr moved to accept the IRC's recommendation to the Board on the M/V EVER LOGIC incident, that the Board find for no misconduct on the part of the pilot, and that the case be closed with no further action. Commissioner Korwatch seconded the motion.

VOTE: YES: Carr, Korwatch, Nyborg, Rodriguez.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

Commissioner Rodriguez returned the meeting back to Vice President Hayes-White to resume as Chair.

B. Progress report on the September 1, 2023, event involving the M/V BOHOL ISLAND, which made unintended contact with the pier in Sacramento, CA.

MOTION: Commissioner Carr moved to grant the IRC an extension to present its report on the M/V BOHOL ISLAND at the next Board meeting, on Thursday, September 26, 2024. Commissioner Rodriguez seconded the motion.

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

ACTION: The motion was approved.

11. Report on August 1, 2024, Ad Hoc Committee on Review of Pilot Trainee Training Program Selection Exam. (Committee Chair)

Executive Director Garfinkle presented the report of the Ad Hoc Committee on Review of Pilot Trainee Training Program Exam (Ad Hoc Committee) on behalf of Committee Chair Jennifer Ferrera Schmid.

Executive Director Garfinkle began his report on the work of the Ad Hoc Committee with a summary of the current situation, noting that:

- The Board is two years away from hosting another trainee exam, and
- Two years is not a lot of time to contract for exam-related services and prepare the exam.

Executive Director Garfinkle added that the following issues were discussed by the Ad Hoc Committee at its August 1, 2024, meeting:

- Personnel issues at CMA are a significant concern. To date, CMA has not been able to identify staff required to prepare the exam or operate the simulator.
- To learn from other jurisdictions, the Ad Hoc Committee met with representatives from the Washington State Board of Pilot Commissioners (Washington State) to discuss their exam process. Executive Director Garfinkle shared the following items with the Board:
 - The Washington State exam was originally developed with help from Dr. Norman Hertz, the same psychometrician who created the Board's exam.
 - The format of the Washington State exam is similar to the one employed by the Board and includes three components: 1) a post-application eligibility review, 2) a written exam, and 3) a simulator exam. Washington State does not include an interview in its exam.
 - For its most recent exam, Washington State contracted with a third-party psychometric firm.
 - The third-party psychometric firm hired by Washington State made the written exam available online, giving candidates the option of taking the exam remotely. The online exam is very secure with proctoring occurring on a one-to-one basis. Candidates who passed the written portion of the exam completed the simulator portion of the exam onsite in Washington.
 - The Ad Hoc Committee felt that the option to take the written portion of the exam remotely had the potential to increase the size of the candidate pool as well as its diversity.
 - The option to take the exam online would also reduce the costs associated with the Board's exam. For example, under the current model, applicants must travel to California and be prepared for an extended stay if they pass the written portion of the exam.

- The Ad Hoc Committee also felt that the third-party psychometricians would be able to refresh an exam that is almost four decades old.
- Executive Director Garfinkle also reported that members of the Ad Hoc Committee met with representatives from CalHR:
 - During this meeting the committee members presented CalHR with the work that the third-party psychometric firm performed for Washington State and asked CalHR about the feasibility of offering a virtual exam.
 - CalHR explained that they are developing the capabilities to offer virtual exams, but they would not be able to do so at the current time.
 - CalHR stated they were open to working with an outside psychometrician.
- Based on the discussions that have been had to-date with Washington State and others, the ongoing personnel issues at CMA, and the contracting challenges of state contracting, the Ad Hoc Committee feels the Board should publish an RFP for psychometricians. Any psychometrician participating in the RFP would have to meet three criteria: 1) Experience developing marine pilot exams, 2) delivering and proctoring online written exams, and 3) creating and proctoring simulator-based exams.

Following Executive Director Garfinkle’s report, the Commissioners and members of the public discussed the report:

- Commissioner Carr supported the proposal to run an RFP. He also expressed the view that the third-party firm that the Ad Hoc Committee met with has a wealth of knowledge based on its interactions with other west coast pilot groups (e.g., Southeast Alaska Pilots’ Association, Puget Sound Pilots, etc.).
- Commissioner Rodriguez asked if Washington State has seen a more diverse pool of trainee pilot candidates. Executive Director Garfinkle responded that he believed there was some additional diversity in the final candidate pool. Commissioner Carr added that the validation report on the Washington State website may provide some additional insights on the diversity of the applicant pool. He also noted that the remote exam allowed for a more diverse candidate pool based on anecdotal evidence.
- Commissioner Nyborg spoke in favor of using a third-party psychometrician for testing purposes. Commissioner Nyborg expressed the view that the increased transparency an independent company, rather than a state agency, would provide to applicants is an important rationale for this change. He noted that an independent company may be able to do a better job explaining where the applicant fell short on a particular question. Commissioner Nyborg also suggested that there might be legal benefits to the Board and state, if an arms-length agency was used.

Executive Director Garfinkle responded that the third-party psychometricians planned a great deal of transparency into their process that is not in the Board’s current process. This includes approximately one hour of time in the simulator for each candidate prior to the

actual exam. Additionally, the third party holds virtual seminars prior to the written exam. Executive Director Garfinkle expressed the view that a third party would bring transparency to the process at the front end, reducing challenges on the back end.

- Commissioner Rodriguez asked if the Board still charges to take the exam. Executive Director Garfinkle explained that the upfront fee for the exam is \$1,000. Half of the fee is refunded if the applicant does not move on to the simulator portion of the exam. The Board keeps the entire fee if the applicant completes both parts of the exam (written and simulator). Executive Director noted that he believed the cost to take the Puget Sound Pilot's exam was several thousand more.
- Responding to a comment by Executive Director Garfinkle about changes to the regulations prior to the last exam that opened the exam to candidates with chief mate experience, operators of tugs (with lesser tonnage than previously required), and pilots from other jurisdictions, Commissioner Rodriguez asked if the changes to the regulations impacted the quality of candidates. Executive Director Garfinkle responded that the regulatory changes prior to the last exam increased the size of the candidate pool without impacting the quality of applicants. The changing nature of the U.S. maritime industry means that there are fewer people at the top of the pyramid (i.e., fewer ships mean fewer eligible candidates under the old regulations). Changing the regulations to allow chief mates and certain tug operators to apply increases the applicant pool as well as its diversity. Commissioner Korwatch noted that this was a reasonable change. Commissioner Carr recommended leaving the regulations in place for this exam period, noting that the update described by Executive Director Garfinkle had occurred late in the prior exam cycle.
- Captain Anne McIntyre, Business Director, SFBP, reminded the Board that the SFBP has a robust outreach program that includes local schools, including maritime academies. Captain McIntyre also noted that the broader issue of diversity that the Board needs to address should not overshadow the immediate need to organize an exam.
- Roma Cristia-Plant, a member of the public and former Board staff member, reminded the Board the cost of the last exam was between \$225,000 and \$250,000. She noted that adding an outside psychometrician should be possible. Ms. Cristia-Plant noted that it would be beneficial to have CalHR and a third-party psychometrician review the components of the exam to ensure it is testing for the correct factors, including skills, personality, and knowledge.

12. Report and discussion of scheduling of Pilot Licensee continuing education and possible delays to the scheduling of the Fall 2024 Combination Course.

Executive Director Garfinkle reported the following information to the Board:

- Currently CMA holds classes twice a year. According to the terms of the Board's contract with CMA, the class schedule must be mutually agreed upon by CMA and the Board.
- To date, CMA has not been able to identify a simulator operator, when previously there

were two. One of these operators has resigned from CMA and is no longer available; the other operator is a faculty member at CMA with classroom responsibilities. CMA may have been able to identify a simulator operator, but this has not been confirmed.

- This training is required by the Board. If the Board is not able to provide this training, it will have to allow some leniency in terms of license renewal. If the Board does not extend the continuing education requirement until such time as the Board is able to provide the training, some licensees will be at risk of not having their license renewed.
- Executive Director Garfinkle responded that the manned model would not be affected. It is a different vendor and different contract.

Following Executive Director Garfinkle’s report, Commissioners and members of the public addressed the report:

- Commissioner Carr expressed the view that pilots have been concerned about staying in compliance and would welcome this action.
- Roma Cristia-Plant, a public member and former board staff member, noted that delaying the combination course may result in budget pressures. Ms. Cristia-Plant noted that the Board may want to consider holding the Combination Course at a different location.
- Captain Anne McIntyre, Business Director, SFBP, expressed the view that the Board should undertake a broader discussion about continuing education. Pilot should be receiving the best continuing education, not just any continuing education or what’s available. Captain McIntyre noted that several providers offer training, including nationwide pilot training programs, like the one in Canada.
- Executive Director Garfinkle noted that the state’s arcane contract processes impact the Board’s contracting ability. He added that Board may want to consider passing the responsibility for continuing education procurement to the SFBP, adding that they are the subject matter experts in the best position to evaluate the course offerings.

MOTION: Commissioner Nyborg moved to temporarily suspend the Combination Course requirement for license renewal until such time that the continuing education course may be available, per an update from the Executive Director. Commissioner Rodriguez seconded the motion.

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

ACTION: The motion was approved.

13. Stakeholders’ report on subjects that may be of interest to the Board, including reports on shipping activity regionally and within the Board’s jurisdiction (Mike Jacob, Pacific Merchant Shipping Association [PMSA]/Captain Anne McIntyre, SFBP)

Mike Jacob, PMSA President and General Counsel, provided the following report:

- The current year will be one the flattest on record, based on the Port Agent’s report, with minimal variation in traffic month over month. Year over year, the Port of Oakland saw record growth in June.
- Shipping traffic is normally seasonal with peaks and valleys occurring throughout the year. Early spring and post-holiday periods tend to be slower; late August and early September, driven by the back-to-school and pre-stocking for the holidays, tend to see increased volumes.
- Geo-political factors are positively impacting west coast traffic, including conflict in the Red Sea and a Canadian labor dispute.
- Macro-economic factors are also seen as having a positive effect on west coast shipping volumes through the end of the year: the risk of a recession is receding; wages are outpacing inflation, a leading indicator of increased demand; and the U.S. dollar is likely to remain strong relative to world currencies, despite lower forecast interest rates.
- However, the Port of Oakland hasn’t seen the same level of growth as other west coast ports (e.g., Los Angeles/Long Beach and Seattle/Tacoma) but traffic has been steady, and it’s not expected to degrade.

Executive Director Garfinkle asked what was preventing the Port of Oakland from achieving the level of growth seen at ports in Los Angeles/Long Beach and Seattle/Tacoma. Mike Jacob responded that the factors driving growth were unclear. However, he suggested that the availability of rail at Los Angeles/Long Beach might be a contributing factor.

Captain McIntyre, Business Director, SFBP, provided the following report:

- AB 1296 has moved to the Assembly’s Committee on Transportation. She also noted that the Board’s support for the bill has been helpful.
- The P/V GOLDEN GATE has been on the market for almost a year. Even though the price has been lowered to \$250,000, there has been very little interest. She reported that the SFBP is now considering donating the boat to the Stockton Sea Scout troop once the current listing expires.

14. Closed session for the Board to confer with legal counsel regarding potential significant exposure to litigation against the Board involving an inactive licensee. (Board Counsel)

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

Nothing to report.

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

Commissioner Carr asked about the status of the retirement survey. Licensing and Training Programs Manager Wong reported that the survey is now closed. Forty-eight pilots completed the survey, out of the fifty-two pilots who received the survey – a response rate of 92.3%.

16. Proposals for the next Board meeting agenda. (Vice-President Hayes-White)

Proposals for the next Board meeting agenda included:

- Board Counsel Tuck reported that the PEC is required by regulation (7 California Code of Regulations [CCR] § 209(b)) to report on its activities to the Board at each regular meeting of the Board. Vice President Hayes-White agreed to discuss the question with President Tynan of whether the Chair of the PEC must be present at Board meetings, or just submit a written report.
- Commissioner Nyborg asked that an item be added to the next Board agenda to discuss issues related to the reimbursement of the SFBP by the Board for services rendered to the Board by SFBP when there was no contract in effect.

Additional points discussed without specific change deadlines included:

- Commissioner Rodriguez requested a written report by the December 2024 Board meeting on the Board's open contracts and the goods and/or services they have been contracted to provide, including one year of disbursements.
- Licensing and Training Programs Manager Wong confirmed that the Board meeting dates for November and December were Thursday, November 14, 2024, and Thursday, December 12, 2024. These meetings occur earlier in the month than normal due to the holidays.

17. Adjournment.

Vice President Hayes-White adjourned the meeting at 11:54 a.m.

Submitted by:



Allen Garfinkle
Executive Director

ACRONYM INDEX

| Acronyms / Abbreviations | Definition |
|---------------------------------|---|
| AB | Assembly Bill |
| AFMR | Absent For Medical Reasons |
| BCP | Budget Change Proposal |
| BOPC/Board | Board of Pilot Commissioners |
| CA | California |
| CalHR | California Department of Human Resources |
| Cal Poly | California Polytechnic State University |
| CalSTA | California State Transportation Agency |
| CCR | California Code of Regulations |
| CHP | California Highway Patrol |
| CMA | California State University Maritime Academy / California Maritime Academy / Cal Maritime |
| COLA | Cost of Living Adjustment |
| Conn | A term of art meaning the conduct of a vessel |
| FY | Fiscal Year (A Fiscal Year is July-June, instead of a calendar year of January-December) |
| GRT | Gross Registered Tons |
| HNC | Harbors and Navigation Code |
| IRC | Incident Review Committee |
| ITMP | Information Technology Modernization Project |
| MITAGS | Maritime Institute of Technology and Graduate Studies |
| MRP | Minimum Rest Period |
| M/V | Motor Vessel |
| OCC | Orange Coast College |
| OOH | Oakland Outer Harbor |
| PEC | Pilot Evaluation Committee |
| PMI | Pacific Maritime Institute |
| PMSA | Pacific Merchant Shipping Association |
| P/V | Passenger Vessel / Pilot Vessel |
| RFP | Request for Proposal |
| SB | Senate Bill |
| SCO | State Controller's Office |
| SFBP | San Francisco Bar Pilots |
| SLO | San Luis Obispo |
| UCSF | University of California San Francisco |
| USCG | United States Coast Guard |