

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 September 26, 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:

888-808-6929

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SERVING THE PEOPLE OF CALIFORNIA SINCE 1850



**Board of Pilot Commissioners (BOPC)
for the Bays of San Francisco, San Pablo, and Suisun
Board Meeting
Thursday, September 26, 2024, at 9:30 a.m.**

Board Meeting Minutes

ATTENDANCE

Board Members Present (in person and by phone)

Karen Tynan, President, Public Member
Joanne Hayes-White, Vice President, Public Member (by phone)
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

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
Mari McNeill, Administrative 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
Jennifer Cohen, Pacific Merchant Shipping Association (PMSA) Vice President of Governmental Affairs
Captain Paul Ruff, SFBP
Roma Cristia-Plant (by phone)
Captain Anne McIntyre, SFBP Business Director
Charles Gerard, Port of Richmond Port Director

OPEN MEETING

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

President Tynan called the meeting to order at 9:31 a.m. Board Administrative Coordinator, Marjorie (Mari) McNeill called the roll and confirmed a quorum.

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

Ms. Cristia-Plant noted that she was participating remotely by phone.

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

Board action to approve the minutes from the Board meeting held on August 22, 2024.

President Tynan and Executive Director Garfinkle thanked Board staff for the quick release of Board minutes.

MOTION: Commissioner Carr moved to approve the draft August 22, 2024, Board meeting minutes. Commissioner Nyborg seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

4. President Announcements and Activities (President Tynan)

President Tynan provided the following updates:

- Commissioner Rodriguez has been appointed to the Diversity and Finance Committees. President Tynan noted her appreciation for Commissioner Rodriguez's offer and willingness to serve on both committees.
- President Tynan attended the United States Merchant Marine Academy's (USMMA) celebration, commemorating 50 years since the start of women entering USMMA. Among the attendees was Nancy Wagner, USMMA alumnus and former San Francisco Bar Pilot. President Tynan reported that in 1974 the USMMA amended admission requirements to allow women to attend USMMA and the eight women who graduated in 1978 were some of the first to graduate from a federal service academy. She further reported that many women were supported early in their careers in the 1970's through the 1990's by Chevron and several other oil companies. The USMMA's 50-year celebration was both a reunion and celebration.

Commissioner Korwatch stated that the California State University Maritime Academy (CMA) started accepting women in 1973. President Tynan added that it is important to acknowledge those early companies that stepped up and took a chance on hiring women when most others would not.

5. Board Member Announcements and Activities (Board Members)

Commissioner Carr reported he attended a tour of the San Francisco Maritime National Historic Park Museum collection at Fort Mason on August 29, 2024, with Board staff. Commissioners Nyborg and Rodriguez expressed their regrets at not being able to attend.

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

A. Correspondence and activities since the Board meeting held on August 22, 2024.

Executive Director Garfinkle reported on the following:

- On August 26, 2024, Board staff received a copy of the PMSA West Coast Trade Report for August 2024. Included in this edition is a link to the California State Assembly Select Committee on Ports and Goods Movement "Chair's Interim Report" covering (in the

words of the report “This report highlights California ports’ crucial role in the state and national economy, includes a thorough policy analysis of the most pressing issues facing the goods movement sector, and outlines a roadmap to keep California ports competitive in a challenging and complex environment.”

- On August 29, 2024, Board staff and Commissioner Carr, attended a tour of the San Francisco Maritime National Historic Park Museum collection at Fort Mason. Private tours are available to groups, and Executive Director Garfinkle highly recommended the tour. The museum staff provided Board staff scans of two early copies of Pilot Regulations: one from 1881, and another from 1907.
- On September 3, 2024, he received word that Trainee Ben Ajax was resigning from the training program, citing family issues. He counseled Ajax on his options, including taking a leave of absence. Trainee Ajax considered the options overnight and decided that resignation was his best option and on September 4, 2024, resigned.
- On September 5, 2024, he attended the Harbor Safety Committee meeting at the Port of Oakland, where the United States Coast Guard (USCG) presented their Significant Port Safety and Security Cases for July. In this report, he highlighted the marine casualties in cases where a pilot might be involved. There were three notable events: The first on July 15, 2024, where a foreign flag tank vessel experienced a black out and loss of propulsion (LOP) caused by a clogged sea-chest (where cooling water is taken into the hull to cool the plant). A Captain of the Port (COTP) order was issued requiring repairs to the satisfaction of flag or class surveyor. A report from the class surveyor was received on July 22, 2024, and the COTP order was lifted. The LOP was not attributed to fuel switching. The second was an equipment failure on July 23, 2024, wherein a foreign flag bulk carrier experienced a loss of main engine control from the pilothouse. The vessel was transiting to San Francisco Bay using engine room control. A COTP order was issued requiring repairs to the satisfaction of flag or class surveyor. Class survey report was received attesting to the repairs approximately July 20, 2024, and the COTP was lifted. The third was an equipment failure on a United States flag vehicle carrier on July 29, 2024, while the ship was departing San Francisco Bay. The ship discovered a steam leak on starboard bulkhead-stop bypass piping. The ship was issued a Form 835 requiring the deficiency to be rectified prior to departure to satisfaction of class surveyor. Class witnessed satisfactory dye pen and hydro test. Crew reinstalled piping and noted no issues. Following operation of both boilers, crew noted that the No. 2 boiler gauge line was leaking due to a wasted gasket. Crew replaced the gasket with satisfactory operation of No. 2 boiler. Form 835 and operational control was lifted, and case was closed.
- On September 8, 2024, he received an email from Jennifer Schmid, former commissioner, and Chair of the Ad Hoc Committee to Review the Pilot Trainee Training Program Selection Exam, informing staff that she has accepted employment at Cal Maritime as the Professional and Continuing Education (PaCE) Program Liaison for the Board’s Trainee Selection Exam contract, and would need to resign from the Committee due to a conflict of interest.
- On September 11, 2024, he attended a meeting of the Board’s Finance Committee.
- On September 12, 2024, he and Assistant Director Millsbaugh attended a meeting of CalSTA directors where BOPC presented on department Objective and Key Results (OKR’s) with each department highlighting their big win or success, and big learn. The information presented by Board staff included BOPC’s Information Technology

Modernization Project (ITMP) as a big success, and BOPC's diversity initiative as the Board's big learn.

- On September 13, 2024, the comment period for the Pilot Boat regulations closed, with staff receiving two comments, one from SFBP and one from PMSA.
- On September 16, 2024, the Board received a Pilot Vessel Condition and Valuation Survey from SFBP on the Pilot Vessel (P/V) PITTSBURG.
- On September 18, 2024, he attended the open session of the Pilot Evaluation Committee, and that same day, he attended the Marine Exchange's 175th Anniversary Party, hosted at the Merchant's Exchange Building on California Street. He thanked the Marine Exchange for the invitation.
- On September 24, 2024, he attended a meeting of the Ad Hoc Committee to Review the Pilot Trainee Training Program Selection Exam.

B. Report on pilot licensing matters since the Board meeting held on August 22, 2024.

Executive Director Garfinkle reported that since the August Board meeting, the Board issued license renewals to the following Board licensees: Captains Pascucci, Olmsted, Murney, LeSieur, and Alfes.

C. Report on Board surcharges.

Executive Director Garfinkle reported that the SFBP wired \$810,150.00 to the Board for surcharges collected in August 2024, itemized as follows:

- Operations Surcharge: \$ 194,333.89
- Pilot Training Surcharge: \$ 20,560.00
- Trainee Training Surcharge: \$ 29,450.00
- Pilot Boat Surcharge: \$ 565,806.11

D. Report of pension fiduciary.

Executive Director Garfinkle reported that as of August 31, 2024, there were 85 pensioners.

- Surcharge Rate for the Quarter: \$ 0.04448 per gross registered ton
- Rolling Look Back Period: April 2023 through March 2024
- Monthly Tonnage for May: 28,295,148
- Surcharge Billing Total: \$ 1,258,568.14
- Administrative Costs for the Month: \$ 2,487.85
- Amount Distributed to Pension Beneficiaries: \$ 1,256,080.29
- Total Monthly Target Rates: \$ 1,242,335.91
- Amount Over/(Under) Target: \$ 16,232.23

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 Captain Slack's intent to address the membership of SFBP to relay lessons learned regarding the issue of passing the conduct of the vessel (conn) to a mariner who does not hold the appropriate state or federal pilot license. The discussion was initially planned for the August General Membership meeting, but since the meeting was cancelled, and Captain Slack is not available to attend the October General Membership meeting, he will discuss it at the November General Membership meeting.

Additional Discussion (Directors' Report continued)

Legislative Activities

For legislative matters, Assistant Director Millspaugh reported the following:

Senate Bill (SB) 295 Dodd/Grayson

Board staff continue to monitor SB 295. This bill authorizes changes to Harbors and Navigation Code (HNC) section 1159.1 and expands the authority of the Board of Pilot Commissioners (Board) to expend funds from the Board's Special Fund for pilot boats. This bill passed both houses of the Legislature and was enrolled and presented to the Governor on September 9, 2024. The Governor has through September 30, 2024, to act on the bill.

Assembly Bill (AB) 1296 Dodd/Grayson

Board staff continue to monitor AB 1296. This bill prohibits a state regulation from requiring or compelling licensed pilots, to replace certain pilot boats until a pilot boat reaches the end of its useful service life. The bill allows for the useful service life of a pilot station boat to be between 25 and 35 years from commission date. This bill passed both houses of the Legislature, was enrolled and presented to the Governor on September 11, 2024. The Governor has through September 30, 2024, to act on the bill. Assistant Director Millspaugh added that he would provide updates upon receipt of the Governor's response.

Contractual Matters

Assistant Director Millspaugh reported the following regarding contractual matters:

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

Board staff have met internally and with the Board's California Highway Patrol (CHP) partners regarding options for the development of a new agreement between CMA and the Board. Board staff have a meeting on October 2, 2024, with CMA's staff to discuss the development of the agreement. The recommended timeline for submission of the draft agreement includes paperwork for the agreement submitted to CHP by December 31, 2024, and an agreement in place by June 2025.

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 management for signature.

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

BOPC staff continue to work with SCO staff to develop a scope of work, for a new Inter-Agency agreement between the Board and SCO for the Pilot Boat Program Audit. Staff anticipate development of the new Inter-Agency Agreement to be completed (submission of approvals) by December 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 period of July 1, 2024, through June 30, 2025, has been reviewed and approved by UCSF. CHP management is currently reviewing the agreement. Once approved, the agreement can be finalized.

Pilot and Pilot Trainee Fitness Assessment w/UCSF (Contract # To Be Determined)

Development of a three-year agreement with a term period of July 1, 2025, through June 30, 2028, is in process. Board staff have requested a meeting with UCSF staff to discuss the Scope of Work (SOW) and budget. Board staff expect to submit the agreement for review by CHP by December 31, 2024.

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 June 30, 2026, and increase the budget by \$54,419.00 has been reviewed and approved by Caltrans, and is now under review by CHP management, and the agreement can be finalized once it is approved.

Budget Act of 2024 – State Operations Reductions

The Budget Act of 2024 called for reductions in state operations costs by 7.95%. Starting in Fiscal Year 2024-25 and ongoing, agencies and departments' state operations budgets are to be reduced by 7.95%. Board staff submitted information to the Department of Finance (DOF) August 21, 2024, requesting an exemption from the reduction. To date, Board staff have not received a response from DOF.

Commissioner Rodriguez inquired if CalSTA had reviewed/concurred with the budget reduction exemption request to DOF. Assistant Director Millspaugh responded that CalSTA had vetted and approved the exemption request before it was submitted to DOF.

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 August 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 August, there were 10 MRP exceptions, with the shortest rest period being 10 hours.

B. Monthly report on SFBP ship piloting business activity.

For August 2024, Captain Carlier reported normal operations for all Pilot Vessels (P/V), which included the CALIFORNIA, DRAKE, PITTSBURG, and SAN FRANCISCO. P/V GOLDEN GATE was in the shipyard for scheduled warranty and maintenance work from July 19, 2024, through August 16, 2024.

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

- Bar Crossings: 475
- Bay Moves: 116
- River Moves: 60
- Total Moves: 651
- Gross Registered Tonnage (GRT): 28.3 million

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 0.14% and GRT is up 7.6%.

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.

None.

8. Pilot Evaluation Committee (Committee Chair)

A. Report on the Pilot Evaluation Committee (PEC) meeting held on September 18, 2024.

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

- The Pilot Evaluation Committee (PEC) met on September 18, 2024. The members present were Captains Wehr, Slack, Stultz, Bridgman, and Ruff. Executive Director Garfinkle joined the PEC in an open session.
- The PEC discussed Captain Ben Ajax resigning his appointment as a Pilot Training Program trainee (trainee). The PEC discussed completing an official exit interview going forward would be of positive value. The interview would be very similar to the questions asked when Captain Ajax informed the PEC of his decision. Information received by the PEC, if applicable, might be used to improve the program. The PEC members all acknowledged the strain of the training program, and that being a pilot isn't for everyone.
- There were four active trainees as of September 2024, including Gallo, Barron, Johnson, and Johnston. The trainees' time in the program ranges from four months to 12.9 months.
- All four trainees have been acquiring trips to obtain their first-class pilotage endorsement for unlimited tonnage upon San Francisco Bay. They have been observing, part handling and handling ships under direct supervision of a licensed pilot.
- Trainees Gallo and Barron have completed testing for their federal pilotage with the USCG and have completed a few trips to and from Sacramento to raise their pilotage endorsements to unlimited first-class pilot.
- In closed session, all trainees were individually interviewed and counseled on their progress in the training program. Time was spent answering their questions and concerns.
- As of September 2024, all trainees are meeting recommended benchmarks and are progressing at their own rate.
- The next PEC meeting is scheduled for Wednesday, October 16, 2024, at 0730 in this 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.

Nothing to report.

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

Possible Board action to award a Certificate of Completion to a trainee who has completed the Pilot Trainee Training Program.

Nothing to report.

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.

Chair Ruff stated there was nothing to report and that the earliest a trainee may complete the training program (and be recommended to the Board for licensure) would be March or April 2025. Captain Ruff reported all four current trainees show a strong aptitude for the job. He further reported an increase of the trainee stipend from \$8,000 per month to \$9,000 per month could incentivize trainee positions and allow trainees to adjust to the cost of living in the Bay Area.

E. Discussion regarding requirements for PEC Chair reporting and who is required to deliver the PEC Chair's report (Legal Counsel Tuck)

Board Counsel Tuck stated there was discussion in the August 22, 2024, Board meeting regarding the requirements for the PEC Chair to deliver the PEC report. Board Counsel Tuck confirmed there is flexibility in the reporting requirement and the Chair could submit a written PEC report to the Board rather than present in person to the Board. Board Counsel Tuck further noted the degree of flexibility given to the Chair on the form of reporting is up to the Board's discretion.

Upon discussion, the Board's consensus included: although the Chair's presence at Board meetings is valued, the PEC Chair does not need in-person PEC reports to the Board when the report provides routine information, but it would be beneficial for the PEC Chair to be present or call in on a semi-regular basis, and the PEC Chair should report in-person when there is a PEC report item to present beyond routine updates, such as a trainee leaving the program. The Board consensus was that the specific frequency of the PEC Chair's attendance shall be left at the discretion of the PEC Chair. Chair Ruff agreed with the Board's assessment, stating he also saw value in attending; including the knowledge he gained from each Board meeting he attended.

The Board also discussed Captain Ajax's resignation from the trainee program. Chair Ruff stated he exhausted every possible outreach option to persuade Captain Ajax to continue the program, including a leave of absence, but Captain Ajax was firm on his position. Chair Ruff stated that, although they try to explain to trainees that the first few months are the hardest and most intense, everyone has their own unique pressures. The trainees are encouraged to take 45 jobs per month for the first few months and then at least 30 jobs per month after so they may become used to the (often) demanding schedule. Despite this, some trainees reach a point where their performance drops and they are encouraged to take a break and rest, but for some the demanding nature of the training may interfere with work-life balance or other obligations to the point they opt out of the training program.

Citing the limited number of trainees eligible for the training program, Commissioner Nyborg stated it may be beneficial to have a second-tier list of candidates who scored just below the cut-off to pass the Trainee Training Program exam. Commissioner Carr stated that although he

understood Captain Ajax's reasons, he was very disappointed Captain Ajax left the program because he was pleased with Captain Ajax's performance.

9. Discussion and possible Board action regarding filling the pilot trainee vacancy created by the resignation of Captain Ajax on September 4, 2024, from the Pilot Trainee Program, and possible action to add a second additional pilot trainee to the Pilot Trainee Program (Director Garfinkle)

Possible Board action to direct the Executive Director to make offers of training to one or more candidates on the list resulting from the exam offered in 2022.

Executive Director Garfinkle reported Board staff did their best to provide Captain Ajax with options to remain in the in the trainee program; further noting that during pilot trainee orientation, Board staff provide information on strategies for creating a work-life balance; however, at times this work-life balance is not always achievable, causing trainees to exit the program.

Executive Director Garfinkle stated there are four candidates on the Pilot Trainee Training Program list and recommended contracting with the next two candidates as soon as possible. The Board supported the decision. Executive Director Garfinkle stated the next two candidates still need to submit their updated proof of sea time required to enter the program, but he anticipates having this information soon, and that UCSF should have the paperwork ready for the first additional trainee candidate ready by October 7, 2024. He further noted that candidates are contacted in the order of their score on the exam.

Executive Director Garfinkle stated he had not contacted the second additional trainee candidate because he wanted to receive the Board's approval first.

Commissioner Korwatch stated it would be beneficial to address exit questions with trainees leaving the program to highlight challenges (health, children in school, etc.) and that having a mental evaluation may be helpful to determine each candidate's compatibility with the program prior to starting.

Executive Director Garfinkle stated he would meet with the physicians from UCSF [who provide the fit-for-duty assessments] in October 2024 and would address the idea of additional mental health evaluations. Further discussion regarding recruiting pilot trainees included: There are challenges with recruiting candidates from other regions of the country. Candidates that move from other regions find it can be very expensive, and it is difficult to compete with other pilot organizations in a more affordable area or that have an easier application process. To counter the high cost of living in the Bay Area for trainees, there was discussion regarding increasing the trainee stipend. Director Garfinkle noted that despite recruiting challenges, Board staff's goal is to reach 60 licensees.

Commissioner Nyborg agreed with starting two trainees, with one starting immediately, but disagreed with 60 pilots as the goal. The MRPs reported every month should be referenced to determine if there's adequate pilots, or to monitor if there are increased ship delays (indicating more pilots may be needed). He further noted a higher number of pilots results in a smaller share

per pilot of revenue collected. If less money is allocated to each pilot, then it makes the positions less attractive when recruiting new pilots.

Vice President Hayes-White agreed with the administrative efficiency of adding two trainees at the same time.

MOTION: Commissioner Rodriguez moved to contract with two new trainees for the Pilot Trainee Training Program. Commissioner Carr seconded the motion.

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

ABSTAIN: None.

ACTION: The motion was approved.

Recess began at 10:44 a.m.

Meeting resumed 10:59 a.m.

10. Reported Safety Standard Violations (Executive Director Garfinkle) (Reported safety standard violations occurring up to the start of the meeting will be reported on.)

Executive Director Garfinkel reported that there have been no safety violations since the August 22, 2024, Board meeting.

President Tynan extended a special thanks to Charles Gerard, Port Director at the Port of Richmond for attending the Board meeting and requested the Board minutes reflect that introductions and cards were exchanged with him. A 2025 tour was suggested to understand the Port of Richmond operations.

11. Incident Review Committee (IRC) —Reportable Piloting Events (Executive Director Garfinkle/Vice President Hayes-White) (Reportable piloting events occurring up to the start of the meeting will be reported on.)

Executive Director Garfinkle reported:

- There was an incident on September 25, 2024, involving the KONA TRADER making unintentional contact with a pier at the Port of Stockton. Details will be presented at the November 14, 2024, Board meeting.
- The Motor Vessel (M/V) BOHOL ISLAND is the last of the 2023 events to be investigated and reported on. Director Garfinkle noted the incident involving the M/V BOHOL ISLAND did not present a threat to pilot or public safety, and the IRC prioritized more serious incidents.

Board deliberation of the Incident Review Committee’s recommendations to the Board and determination regarding the event of September 1, 2023, involving the M/V BOHOL ISLAND which made unintended contact with the pier in Sacramento, CA. If the report is not presented, the IRC may request an extension. If that is the case, possible Board action to extend the M/V BOHOL ISLAND to the next monthly Board meeting. The Board may go into closed session for the deliberation of the incident report presented under this item pursuant to Harbors and Navigation Code section 1180.6 and Government Code section 11126, subdivisions (c)(3) and (e)(1).

Commissioner Nyborg recused himself from the discussion of this incident.

Executive Director Garfinkle reported:

- This incident did not present any issues.
- On the morning of September 1, 2023, the M/V BOHOL ISLAND was transiting from sea to the Port of West Sacramento. The M/V BOHOL ISLAND is a 591-foot-long bulk carrier. A pilot change took place off the city front, where Captain Daniel Larwood relieved the pilot who brought the ship from the sea buoy. Captain Larwood would take the ship the remaining distance to West Sacramento.
- The ship proceeded to West Sacramento with no incidents.
- At approximately 1515 hours, in the vicinity of navigation lights 81 and 82, the tug BELINDA BRUSCO was made fast on the port bow, and the tug MIKE BRUSCO was made fast on the starboard bow.
- At approximately 1522 hours, the ship entered the West Sacramento turning basin. Captain Larwood commenced to turn the ship to port to initially head northeast (from an easterly heading), followed by a turn to starboard to head southeast. He then commenced a turn to starboard to head the ship westerly in preparation for backing into Berth 2.
- After completing the turn, with the bow of the ship facing generally West-Northwest (WNW), he commenced to back into the 250-foot-wide channel, where Berth 2 is located, and moor starboard side to the pier.
- At approximately 1547 hours, as the ship proceeded to back into the channel, the vessel made unintended contact with the west corner of the pier, resulting in a dent in the starboard side of the ship.

Executive Director Garfinkle stated this was a case in which Captain Larwood attempted to counter the wind with his tugs, but the wind was too strong, and the maneuvering area was small, resulting in unintentional contact. The standard of care was whether his actions were reasonable for an expert in his field. The repairs were initially estimated at \$4,000 but the yard increased the estimate to \$4,661 without explanation; but the cost is still minimal. Director Garfinkle opined that it might be helpful if there were pilot guidelines for tug use in West Sacramento, but none currently exist. The incident report includes a footnote that the tug BELINDA BRUSCO only had 1,500 horsepower while, for comparison, the American Navigation tractor tug, REVOLUTION, has 4,730 horsepower.

Executive Director Garfinkle stated that based on the evidence and analysis, the IRC recommended the following actions to the Board:

- That the Board find for no pilot error.
- That this investigation be closed without further action.

Board members decided a closed session was not necessary. Commissioner Carr voiced his support of the IRC's recommendation. Vice-President Hayes-White recused herself from voting but voiced her appreciation of Executive Director Garfinkle's thorough report.

MOTION: Commissioner Rodriguez moved to accept the IRC recommendation in the BOHOL ISLAND report and note the incident as a lesson learned without a finding of misconduct. Commissioner Korwatch seconded the motion.

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

ACTION: The motion was approved.

12. Report on September 24, 2024, Ad Hoc Committee to Review the Pilot Trainee Training Program Selection Exam. (Committee Chair)

Commissioner Carr reported:

- The committee met on Tuesday, September 24, 2024.
- Previous Committee member and Chair, Jennifer Schmid, recently accepted a position with CMA and had to separate from the committee to avoid a conflict of interest. Commissioner Carr was elected Chair.
- The committee reviewed the notes from the previous meeting, held on August 1, 2024.
- The committee reviewed the items noted in the agenda. Discussion topics included: Options for the exam, diversifying the candidate pool, CMA, and their ability to host (staff have reported no progress on this issue), and the target date of June 2026 for an exam to be in place. One challenge posed in contracting with CMA is identifying the simulator operators that will have continuity through the exam development process. Details regarding psychometricians and getting confirmation the Board can utilize services outside California Department of Human Resources (CalHR) was also discussed. The committee spent time looking at each component and brainstorming solutions such as having part of the exam proctored remotely to remove the barrier of travel.
- The committee had no recommendations for the September 26, 2024, Board meeting.
- Board staff reported that CalHR is willing to take the direction the Board decides and is willing to work with outside psychometricians and sub-contractors for processes they cannot currently perform. The committee discussed the benefits of working with a third-party psychometrician.
- Board staff need to reach out to the Washington State Board of Pilot Commissioners to determine if some of their testing process would be a fit for BOPC.
- Board staff need to investigate and confirm the compatibility limitations of the navigation simulator software (Transas) systems.
- In response to the necessary timeline Board staff mentioned in their report, the committee considered administering an exam without the simulator portion; to ameliorate time limitations and eliminate the timeframe needed to employ a simulator. If the simulator was not required, then it would increase the flexibility of the exam timeline, to allow the exam to be conducted any time of the year. Some suggestions included adding the simulator into the training program instead of the exam. No action was taken but the committee plans to continue discussing and investigating these ideas.
- The committee discussed service providers outside of CMA and concerns of contractual length and timeline constraints, concerns related to contractors outside of California, and

requirements related to a new pool of candidates. Commissioner Carr suggested utilizing a separate candidate pool, formed from interview only (no written/simulator test) targeted towards diversifying the candidate pool, but Board staff stated that this approach would require regulatory changes.

- Committee work going forward will be a dual track process of moving forward with the current exam process and investigating a new exam process. Board staff will also continue to monitor CMA for availability and the committee will continue to look at innovative ideas to improve the exam process.

Executive Director Garfinkle stated that, although there are no specific deadlines with CMA, there are time constraints due to the lengthy contracting process. He added that he was hopeful that pursuing the two tracks of the exam process would assist the Board with meeting the goal of submitting the completed exam contract to CHP staff by the end of the year so CHP could complete their portion by the summer of 2025. The committee discussed many ideas for changing the exam process, but no timeline was determined.

Commissioner Carr added that, although the Board cannot have a separate exam targeting under-represented groups, the Board can reach out to groups, such as the “Women Offshore Foundation” and “Organization of Black Maritime Graduates” and encourage them to participate.

Executive Director Garfinkle stated the committee also discussed expanding the candidate pool to include those with less experience, such as second mates, but noted that the Board has already expanded the exam candidate pool to include chief officers and licensed pilots from other jurisdictions, in an attempt to increase diversity. He agreed with the committee’s suggestion to take a fresh look at the exam requirements and format, but that a psychometric evaluation should be done to evaluate what changes are feasible. This psychometric evaluation could be a parallel process, in addition to going forward with planning the next exam.

Captain McIntyre stated there are broad parameters for the pilot selection process throughout the nation. Some examples include:

- In New York, pilots are brought on with little experience, but they have a longer training program, and their focus in screening candidates is not to select someone to be a pilot, the focus is to select someone to train to be a pilot.
- In Florida, they only require candidates to have experience as a second mate.
- In Los Angeles, they only have an interview, not an exam.

Captain McIntyre stated many other groups lean towards a written exam only. Having participated in the pilot selection process for several locations, including being a simulator exam evaluator twice in San Francisco, Captain McIntyre noted that each selection process was different, and the selection focused on different qualities in the past and present.

President Tynan stated that including a simulator portion as part of the exam may give disproportionate advantages to those who have the resources to practice with simulators or have someone who can coach them on simulators. Captain McIntyre agreed, stating the following: there are different ways to train people now that can teach them more efficiently. The simulator portion of the exam is used to evaluate a candidate’s response to stress and ability to adapt and complete a difficult job. The exam should be used to determine if the candidate has the aptitude to be a successful pilot not to evaluate their existing skills and knowledge handling a ship. There are

methods, other than using a simulator, that could be used to evaluate this information. There's a lot of existing resources (other pilot exams in other jurisdictions utilizing various methods and platforms) to reference for exam revisions. The mariner pool is shrinking, and it may be beneficial to look at training pilots from the ground up. Commissioner Rodriguez added that the average starting age of the pilot candidate is very high and with the current candidate standards, the Board will be challenged to retain pilots twenty years into the future.

President Tynan stated the next Ad Hoc Committee to Review the Pilot Trainee Training Program Selection Exam meeting will be November 7, 2024. Commissioner Carr added that the Board will meet one week later, on November 14, 2024.

Captain McIntyre stated she was in the Columbia River trainee program for a long time and came in through the dual-apprenticeship program, being paid \$1,635 per week, with less experience than current candidates are required to have, but it took longer to get through the trainee program because she had a lower license (despite working for Chevron for eight years). She suggested bringing in people with less experience and training them longer.

Commissioner Nyborg recommended a regulatory change to extend the "dismissal without cause" timeframe to two years, instead of the current one-year timeframe. He supported this recommendation by stating:

- For the first three months, trainees are actively riding (observing and learning, not handling vessels), limiting what is evaluated. The trainee is only actively handling the vessels for the last nine months of their first year. Deciding if the trainees know how to handle a ship after only actively handling them for three months is not enough time to perform a proper evaluation; but, under current regulations, if they are not dismissed within the first year then the opportunity to easily dismiss and replace them with another trainee will be missed.
- Dismissals without cause require less paperwork but are only utilized when there is a serious issue.
- If the trainee requirements are lowered to allow candidates with less experience, then the dismissal timeframe will need to be extended to reduce potentially wasted resources and allow a reasonable pace for trainees to meet benchmarks and be evaluated prior to the dismissal cutoff.

President Tynan recommended addressing the lowered experience requirement suggestions and trainee dismissal timeframe extension suggestions in the Ad Hoc Committee to Review the Pilot Trainee Training Program Selection Exam meeting on November 7, 2024, and creating an agenda item for the Board meeting on November 14, 2024, to address any proposed changes.

13. Finance Committee (Commissioner Captain Nyborg)

A. Report on the Finance Committee meeting held on September 11, 2024.

Committee Chair Commissioner Nyborg reported that he sat on the Finance Committee with Captain McIntyre and Mike Jacob for the meeting on September 11, 2024. The general goal of the Finance Committee is to ensure there are appropriate revenues to meet the Board's goals, with one-year of reserve to provide for extra funds to cover a drop in revenue. The surcharges referenced in agenda items 13B (i-iv) are all connected with these goals. The Finance

Committee proposes the changes needed to meet these goals. There are currently no new recommendations to change any of these surcharge amounts.

B. Finance Committee recommendations to the Board on the following Board surcharges:

- i. To adjust or not adjust the Board Operations Surcharge rate (currently at 5.5% of all pilotage fees), and the revenues, expenditures, and reserve balance.**

Possible Board action to adjust the Board Operations Surcharge rate.

Committee Chair Commissioner Nyborg reported that the committee recommended to the Board that the Board maintain the Board Operations Surcharge rate at 5.5% of all pilotage fees.

Assistant Director Millspaugh reported the following regarding the Information Technology Modernization Project (ITMP):

- Gartner has entered phase “Project Approval Lifecycle” (PAL) stage 2 of the project. This phase focuses on marketing research and discussing different attributes desired for the modernization.
- Gartner provided an unofficial high range cost estimate of \$7-10 million to implement a thorough solution. Gartner projected the official cost estimate release by December 2024. These costs would be FY 25/26 expenditures.
- Gartner has been informed that the budget is not unlimited. As a clarification, Assistant Director Millspaugh noted that Gartner cannot participate in the system acquisition contract, so they do not benefit from inflated estimates.

Committee Chair Commissioner Nyborg voiced concerns regarding the high quote. The surcharge, currently at 5.5%, would need a 2% increase to cover these expenses. He stated that although he agreed regarding the importance of the objective, he could not support such a significant expenditure.

Commissioner Rodriguez suggested having a control agency pay for ITMP with the Board reimbursing the agency over multiple years. Assistant Director Millspaugh said Board staff has been researching if the ITMP can be a phased over multiple years to split the expenditures between years, but Board staff need to consult with the Department of Technology.

Executive Director Garfinkle added that funding considerations include the budget authority, the available funds, and the possibility of dipping into the Board’s one-year operating reserve, instead of raising the surcharge to 7.5%. The Board currently has \$2.2 million (approximately one-year authority) in the Board Operations account reserved for contingencies or emergencies.

Committee Chair Commissioner Nyborg stated that the committee did not recommend any surcharge adjustments.

- ii. **To adjust or not adjust the Pilot Continuing Education Surcharge rate (currently at \$35 per move).**

Possible Board action to adjust the Pilot Continuing Education Surcharge rate.

Committee Chair Commissioner Nyborg reported that the committee recommended the Board maintain the existing Pilot Continuing Education Surcharge rate of \$35 per move.

He also stated that Board staff, in cooperation with SFBP, decided to cancel the CMA Combination Course for the fall due to CMA's lack of ability to confirm dates, that resulted in truncated scheduling that would be unfair to licensees. Savings from the canceled course will be used towards the next training, to be scheduled in the spring.

- iii. **To adjust or not adjust the Pilot Trainee Training Surcharge rate (currently \$10/trainee/move).**

Possible Board action to adjust the Pilot Trainee Training Surcharge rate.

Committee Chair Commissioner Nyborg reported that the committee recommended the Board maintain the Pilot Trainee Training Surcharge rate at \$10 per trainee per move. This surcharge is for trainee support and is different than the surcharge for pilot training.

The committee discussed the trainee who recently left the program, the start of two new trainees, that there are currently adequate funds to contract with both new trainees, and how the number of trainees will affect the surcharge amount.

- iv. **To adjust or not adjust the Pilot Boat Surcharge rate (currently at \$0.021 per gross registered ton).**

Possible Board action to adjust the Pilot Boat Surcharge rate.

Committee Chair Commissioner Nyborg reported that the committee recommended the Board maintain the Pilot Boat Surcharge rate of \$0.021 per gross registered ton.

Executive Director Garfinkle added that the committee also discussed the state of the fund, how the passage of SB 295 will impact the fund, and the pilot boat regulations that need to be implemented to pay pilot expenses.

Executive Director Garfinkle recommended that the Board vote on the committee's recommendation to keep all surcharge rates unchanged.

MOTION: Commissioner Nyborg moved to accept the Finance Committee's recommendation to keep all Surcharge rates unchanged. Commissioner Rodriguez seconded the motion.

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

ABSTAIN: None.
ACTION: The motion was approved.

14. Pilot Vessel Condition and Valuation Survey (Executive Director Garfinkle)

Review and discuss the Condition and Valuation Survey for the Pilot Vessel (P/V) PITTSBURG. Possible Board action to accept the Condition and Valuation Survey for the Pilot Vessel (P/V) PITTSBURG and making a finding that the vessel is safe and suitable for pilotage service.

The Board reviewed the Condition and Valuation Survey and noted the exceptions listed. Executive Director Garfinkle stated SFBP assured him that all repairs required to address the noted exceptions for the Pilot Vessel PITTSBURG are expected to be completed in the shipyard prior to October 6, 2024.

MOTION: Commissioner Nyborg moved to accept the Condition and Valuation Survey for the P/V PITTSBURG and the finding that the vessel is safe and suitable for pilotage service. Commissioner Korwatch seconded the motion.

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

ACTION: The motion was approved.

15. 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)

Jennifer Cohen, PMSA Vice President reported an anticipated increase in prices due to the East Coast Longshore labor strike expected on October 1, 2024. Assistant Director Millspaugh added that the Biden administration is not expected to step in.

Captain McIntyre reported that the SFBP has started to move forward with the design for the next new pilot boat and anticipates progress in the next quarter. The SFBP continues to provide documents to the California Air Resources Board (CARB), regarding SFBP's application for extension of service life of the current pilot boat fleet, but CARB remains unresponsive. The most recent correspondence from CARB included a requested for SFBP's tax returns. Despite confidentiality concerns, the SFBP submitted tax returns to CARB on September 25, 2024, via an overnight courier.

Captain McIntyre also reported the SFBP has been researching donation options for the old P/V GOLDEN GATE, including possibly donating it to the Sea Scouts.

16. Discussion regarding the contract for Surcharge Collection, Pilot Education and Pilot Trainee Training between the SFBP and the Board, and issues related to reimbursement of the SFBP by the Board.

Assistant Director Millspaugh reported he provided the relevant information and forms to SFBP for them to submit their reimbursement claim but the issue remains unresolved.

Executive Director Garfinkle reported the pending balance owed to SFBP was not paid because of a six-month lapse in the contract coverage due to a delay in the contract renewal. The Board does not have a mechanism to reimburse SFBP for the services provided that were outside of the contract period. These services that SFBP provided on behalf of the Board during the six-month lapse in the contract agreement included the services of the controller for the collection of surcharges on behalf of the Board, food and amenities for trainees, dispatcher wages for assisting trainees, etc. The Board compensates SFBP based on the negotiated agreement to reimburse expenses, but stated contract rules will not allow the Board to pay for services outside the agreement window.

Assistant Director Millspaugh reported the Board was able to partially mitigate the shortfall with a service agreement. He noted the delays towards completion of the agreement were related to the contract being a sole-source, non-competitive bid contract. Non-competitive bid contracts receive a high level of review from the Department of General Services (DGS), a process which alone took close to six months.

SFBP Counsel Baldwin and Assistant Director Millspaugh stated that the sole path for reimbursement, other than suing the state, is through the California Victim Compensation Board. Although the California Victim Compensation Board is generally for a victim of crime, it is also appropriate for this situation, since there's no mechanism in place to pay SFBP for the period not covered by the agreement. Assistant Director Millspaugh added that the new contract became effective January 1, 2024.

Captain McIntyre stated the total amount is around \$70,000-\$80,000.

Commissioner Rodriguez stated that it will be questioned if the claim is submitted through the California Victim Compensation Board. Counsel Tuck responded that he would investigate other avenues to utilize for this reimbursement.

Captain McIntyre added that taking six months to go through the contracting process hampers the Board operations and efficacy, but it is unclear if there are other processes or other resources for small agencies that could streamline this process. Assistant Director Millspaugh responded the agreement renews every five years and changes in the DGS administration result in extra processing time to educate the new DGS staff regarding the contract and the nature of the statutory relationship between the Board and SFBP. Executive Director Garfinkle suggested a potential solution: a statute that says the Board can enter into an agreement with SFBP for these services. Commissioner Rodriguez suggested having the new statute include language to allow for all SFBP invoices to be reimbursed for services rendered. Commissioner Rodriguez shared that he had previously worked with a state entity that had authority to reimburse invoices up to a certain dollar amount and inquired if the CalSTA Secretary might have a similar authority. Commissioner Dougherty indicated that she would take this back to CalSTA for further review.

The Board supported paying SFBP for the Pilot Education and Pilot Trainee Training outstanding fees. Commissioner Nyborg requested this agenda item remain on the agenda for the Board meeting on November 14, 2024, to encourage progress.

17. 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).

No closed session was held.

18. Discussion of rescheduling or canceling the October 2024 Board meeting.

Possible Board action to reschedule or cancel the Board meeting scheduled for October 24, 2024.

Vice-President Hayes-White noted there would not be a quorum for the Board meeting on October 24, 2024. She suggested moving or canceling the meeting. Executive Director Garfinkle added that there were no urgent matters that would need to be addressed prior to the Board meeting on November 14, 2024.

MOTION: Commissioner Hayes-White moved to cancel the Board meeting scheduled for October 24, 2024. Commissioner Korwatch seconded the motion.

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

ACTION: The motion was approved.

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

None.

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

President Tynan requested agenda item 12 (regarding the exam committee), agenda item 16 (regarding the surcharge collection and reimbursement), and the closed session agenda items (7, 11, and 17), remain on the agenda for the Board meeting on November 14, 2024.

21. Adjournment.

President Tynan adjourned the meeting at 12:44 p.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
CalSTA	California State Transportation Agency
CARB	California Air Resources Board
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
COTP	Captain of the Port
DOF	Department of Finance
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
IT	Information Technology
ITMP	Information Technology Modernization Project
MRP	Minimum Rest Period
M/V	Motor Vessel
OKR	Objective and Key Results
PaCE	Professional and Continuing Education (program under CMA)
PAL	Project Approval Lifecycle
PEC	Pilot Evaluation Committee
PMSA	Pacific Merchant Shipping Association
P/V	Passenger Vessel / Pilot Vessel
SB	Senate Bill
SCO	State Controller's Office
SFBP	San Francisco Bar Pilots
SOW	Scope of Work
Transas	Transas Navigation Simulator
UCSF	University of California San Francisco
U.S.	United States
USCG	United States Coast Guard
USMMA	United States Merchant Marine Academy
WNW	West-Northwest

This and other documents for this meeting can be found on the Board's website www.bopc.ca.gov.

