

<p>Meeting Date: June 25, 2020</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 1 of 19</p>
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Board Members Present

Dave Connolly, President, Public Member
 Joanne Hayes-White, Vice President, Public Member (via telephone)
 Captain Robert Carr, Pilot Member
 David Hoppes, Dry Cargo Industry Member (via telephone)
 Captain Einar Nyborg, Pilot Member (via telephone)
 Captain Oscar Prada, Tanker Company Industry Member (via telephone)
 Avital Barnea, Designee of the Secretary of the California State Transportation Agency (CalSTA)
 (via telephone)

Board Members Absent

Vacant, Public Member

Board Staff Present

Allen Garfinkle, Executive Director
 Roma Cristia-Plant, Assistant Director
 Dennis Eagan, Board Counsel (via telephone)
 Alethea Wong, Administrative Assistant II

Public Present (in person)

Captain Joe Long, San Francisco Bar Pilots (SFBP) President and Port Agent; Captain Anne McIntyre, SFBP Business Director; Captain Orrin Favro, SFBP; Captain Dennis Plant, Chevron and retired BOPC-licensee; and Rex Clack, Esq.

Public Present (via telephone)

Knute Michael Miller, Past Board President; Mike Jacob; Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; Captain Steven Teague, SFBP; Captain Matthew Stevens, - BOPC Trainee; Christopher Kieliger, Cox Wootton Lerner Griffin & Hansen LLP

OPEN MEETING AGENDA

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

President Connolly called the meeting to order at 9:30 a.m. Administrative Assistant II Wong called the roll and confirmed a quorum.

2. Review and approval of Board meeting minutes (President Connolly)

Board action to approve the minutes from the Board meeting held on May 28, 2020.

Board members were presented with the draft minutes from the May 28, 2020, meeting. There was no discussion.

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MOTION: Commissioner Carr moved to approve the draft minutes of the meeting held on May 28, 2020. Commissioner Hoppes seconded the motion.

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

ACTION: The motion was approved.

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

There were no public comments.

4. President Announcements and Activities (President Connolly)

President Connolly announced that it is the International Maritime Organization’s Day of the Seafarer 2020, and the campaign calls on Member States to recognize seafarers as key workers, including pilots, and to provide them with the support, assistance and travel options open to all key workers during the pandemic.

He thanked Board staff and BOPC-licensees for their dedication in continuing to work during the pandemic, and noted that the pandemic is ongoing as evidenced by research from John Hopkins University that there is an increase of COVID-19 cases and infection rate.

5. Board Member Announcements and Activities (Board Members)

There were no announcements.

6. Directors’ Report (Executive Director Garfinkle/Assistant Director Cristia-Plant)

A) Correspondence and activities since the Board meeting held on May 28, 2020.

Executive Director Garfinkle reported on the following:

- On May 29, 2020, Board staff sent a letter to the Department of Finance seeking approval of the Board’s decision to increase the Board Operations Surcharge rate from 2.75% to 4.5%, effective July 1, 2020.
- On June 1, 2020, the Governor’s Office approved the Board’s Annual Report to the Legislature and it was distributed to the California Senate and Assembly as required by the Harbors and Navigation Code.
- On June 5, 2020, he received a letter from Elaine Howle reminding him that he must provide information annually to Board staff on how they can report improper governmental activities and the protections the Whistleblower Act provides.

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- Also on June 5, 2020, Board staff received a copy of *MSIB 08-20, change 2 titled COVID-19 – Mariner Credentials*. This MSIB updates guidance concerning mariner credentials, medical certificates, and course approvals, and the action being taken by the United States Coast Guard (USCG) due to the novel coronavirus, and noted that Merchant Mariner Credentials, Standards of Training, Certification and Watchkeeping endorsements and medical certificates expiring between March 1, 2020, and September 30, 2020, are extended to December 31, 2020.
- On June 11, 2020, Board staff received a copy of the *Briefing Paper* published by PMSA and authored by Jock O’Connell, and noted that this brief provides the most recent data on the loss of containerized trade market share experienced by US West Coast ports in recent years. The brief points out that the market share lost by the west coast is roughly equal to the increase in market share by East Coast ports, Canadian West Coast ports, and gulf ports. He stated that the article’s author believed the shift in shipping activity is due to labor issues, strict environmental regulations, particularly in California, and a newly reconfigured Panama Canal.
- On June 24, 2020, Board staff received a letter from the Department of Finance authorizing the Board to increase the Board Operations Surcharge from 2.75% to 4.5%.
- Also on June 24, 2020, he received an email from a Captain Filppov of the CSL FRONTIER, praising the work of trainee Captain Burchard during a transit from Antioch to Anchorage 8 on June 22, 2020.

B) Report on pilot licensing matters since the Board meeting held on May 28, 2020.

Executive Director Garfinkle reported that since the May Board meeting, the Board renewed the licenses of Captains Cvitanovic, Fawcett, Carr, Nyborg, Haggarty, Long, Slack, Alden, D’Aloisio, Larwood, and Manes.

C) Report on Board surcharges.

Executive Director Garfinkle reported that the Board received a check from the SFBP for surcharges collected in May 2020 in the amount of \$144,877.35, itemized as follows:

- Board Operations Surcharge: \$79,587.35
- Pilot Trainee Surcharge: \$43,800.00
- Continuing Education Surcharge: \$21,490.00

D) Report on legislative activities and contractual matters.

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

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AB 1372, Bonta bill, was gutted and amended on June 22, 2020, and is now a bill to revise the process for setting pilotage fee rates from the Legislature to the Board, and sets forth a process for the Board to conduct when setting pilotage fee rates. She stated the bill also makes other technical changes to the Board's statutes.

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

- A three-year, \$112,123 new interagency agreement for information technology support is still with the California Department of Transportation for signature.
- The amendment with the San Jose State University Research Foundation to add \$75,000 and three years to the term has been executed by the university and the Board, and was sent to the Board's attorney at the Department of General Services on June 15, 2020, for final review and approval.
- The contract amendment to add \$50,000 to the contract amount to fund the 2019 audit, and to extend the term to the end of this year, is still at the Controller's Office for their signature.
- Two contracts with the California State University Maritime Academy for pilot continuing education and Pilot Trainee Training Program selection examination administration will expire June 30, 2020. New contracts were sent to the university for signature on June 1, 2020.
- The manned model contract amendment to change the contractor name to Artelia has been sent to Artelia for signature, and the Board's contract analyst at the California Highway Patrol is waiting for Artelia to register with the Secretary of State.
- The current contract with Artelia for manned model training expires June 30, 2021. In light of the long length of time to conduct complex procurements, the Pilot Continuing Education Committee will meet on July 1, 2020, to review manned model training needs and discuss the contract procurement process to secure the next manned model shiphandling training contract.

Assistant Director Cristia-Plant also reported that work is progressing slowly on the Board's succession and workforce plan.

Commissioner Hoppes requested clarification on AB 1372. Assistant Director Cristia-Plant explained that the bill changes the process to move the pilotage rate approval process to the Board instead of the Legislature, and noted that Port Agent Long has additional information to provide in his report.

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

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

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

- Captain Carlier – September 11, 2019
- Captain Kirk – November 27, 2019
- Captain Boriolo – January 6, 2020
- Captain Kleess – March 19, 2020
- Captain Martin – April 14, 2020
- Captain Pate – May 25, 2020
- Captain Miller – June 2, 2020
- Captain Kasper – June 11, 2020
- Captain Tylawsky – June 15, 2020

He noted that Captain Boriolo is expected to return to work soon.

He reported that the SFBP continually monitors the dispatch list for possible 12-hour minimum rest period (MRP) exceptions, and if the potential exception is likely to result in a rest period less than 10 hours, mitigating measures are employed by the SFBP. He reported that mitigating measures include, but are not limited to, suspending continuing professional development protocols, canceling schedule meetings, canceling previously granted compensated time off requests, suspending SFBP internal working rules, and calling in off-watch pilots.

He reported that there are currently 56 licensed pilots, there were approximately 6 MRP exceptions, and that the shortest rest period was 10.5 hours. He noted that with the increase of pilots on AFMR, it has not affected the MRPs due to a decrease in ship movements. Port Agent Long responded to a query from President Connolly that only one vessel was delayed by 1-2 hours on one day due to pilot availability related to multiple pilot assignments taking place at around the same time.

B) Monthly report on SFBP ship piloting business activity.

Port Agent Long reported that P/V GOLDEN GATE was out of service from June 11 to June 19, 2020, for a planned dry dock, but went in early for repairs to the shaft brake and a crack in the fuel tank.

Port Agent Long also reported that P/V SAN FRANCISCO will be on dry dock in July for a generator overhaul and American Bureau of Shipping certification renewal.

Port Agent Long reported that the billed vessel moves for May 2020 were as follows:

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- Bar Crossings: 428 moves
- Bay Moves: 101 moves
- River Moves: 55 moves
- Total Moves: 584 moves
- Gross Registered Tons (GRT): 24.8 million

C) Monthly confidential written report of SFBP pilots who have been absent for medical reasons (AFMR). The Board may go into closed session to discuss contents of the Port Agent’s confidential report as authorized by Harbors and Navigation Code § 1157.1.

There was no discussion of the confidential written report of pilots who have been absent for medical reasons. There was no closed session discussion of this item.

Commissioner Carr noted that ship movements for May 2020 were down by about 25% and expects June 2020 to be worse than May 2020. Commissioner Nyborg added that moves to date are down 14%, and that certain SFBP fixed costs still need to be paid regardless of pilotage revenue. Port Agent Long stated that due to the reduced ship traffic and revenue, distributions to the pilots have also be reduced this year, and he clarified for Commissioner Hoppes that, as long as a pilot has a license, he can be assigned work, and that no pilots are ever furloughed.

Executive Director Garfinkle stated that two pilots have submitted retirement notices to retire at the end of the month—Captains Klees and Miller.

Port Agent Long then discussed a handout from Asssemblymember Bonta describing AB 1372, and briefly reviewed the provisions in the bill to reform the pilotage rate setting process from a two-step process (Board and Legislature) to a rate setting process at the Board, more akin with other state pilotage commission rate setting process. He noted that current law currently sets pilotage rates, which process was completed 14 years ago, that SFBP’s ability to invest in critical personnel and business infrastructure has been severely impacted. He noted that the bill would result in a quasi-adjudicative process with evidentiary hearings that are subject to the California Administrative Procedures Act, and would allow for a more agile and responsive rate setting process at the Board instead of the Legislature, particularly in times of rapidly changing economic conditions.

Port Agent Long responded to Commissioner Prada’s question about negotiating the bill’s details with the industry, and stated that he has been working with the shipping industry representatives and legislative staff for over two years on the legislation.

Mr. Jacob noted the bill was just introduced, and that he would agree with Port Agent Long’s summary of past rate setting events. He stated that if the Board wishes to discuss the bill,

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that it should be an item on the Board’s agenda. He added that the shipping industry has many of concerns about the bill and would disagree some of Port Agent Long’s comments about the pilotage rate setting process, including that the current process is politicized. He also stated that the shipping industry would prefer the rate setting decisions not be made by the Board since the process would be corrupted and not transparent. He stated that the State of Washington transferred their pilotage rate setting process from the pilot commission to their Utilities and Transportation Commission, a public body that is familiar with setting rates. He stated that he is willing to work with Port Agent Long and the bill’s author, and will be providing a list of his concerns to both parties.

Commissioner Hoppes stated that he does not know what position he has on the bill, but that he is concerned about the West Coast losing market share, the region being competitive, raising rates during a pandemic, and sharing the fiscal pain.

Commissioner Nyborg acknowledged Commissioner Hoppes concerns, and pointed out that the current rates are not sustainable at this time, and moving the rate setting process to the Board will facilitate easier rate adjustments in the future. Port Agent Long added that the Board should consider the overall economic and supply chain impacts during the pandemic.

Commissioner Prada commented that current rates are based upon tonnage handled, tonnage is down, and asked if there has ever been a target salary rate for the pilots considered in the rate setting process. Port Agent Long responded to Commissioner Prada that he is not aware that there has ever been a discussion of a target income level for pilots.

Commissioner Carr stated that the pilots are down to bare bones operations now due to the pandemic, and struggling to maintain a 24/7 operation. He stated that the current pilotage rate change process involving the Legislature is not quick, not flexible, and moving the rate setting process to the Board would provide more flexibility.

Commissioner Hoppes asked about the Board’s ability to approve a temporary surcharge rate due to the pandemic. Assistant Director Cristia-Plant commented that Harbors and Navigation Code §1190(a)(1)(c) allows the Board to set a temporary mill rate increase under certain circumstances, but that she was not certain that the current circumstances meet the statutory requirement. Commissioner Hoppes requested an agenda item on the July Board meeting agenda to further discuss this issue.

8. Pilot Evaluation Committee (Captain Teague)

A) Report on the Pilot Evaluation Committee (PEC) meeting held on June 17, 2020.

PEC Chair Captain Teague reported on the following:

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- The PEC met on June 17, 2020, and in attendance were Committee members Captains Haggerty, Robinson, Slack, and Teague.
- The PEC provided Executive Director Garfinkle a report of trainee activity for May 2020.
- Trainees were interviewed and counseled individually in closed session by the PEC members on their progress in the Pilot Trainee Training Program.
- The eight current trainees include Captains Adams, Benedict, Burchard, Deisher, Murney, Nelson, Rogers, and Stevens. The range of time in the program for these trainees is 2 months to 35 months.
- Captains Burchard, Nelson, and Stevens have their full unlimited federal pilotage endorsement with the USCG. Captain Burchard is in the evaluation stage of the Pilot Trainee Training Program. These three trainees are handling vessels as much as possible, with an occasional observation trip to watch a licensed pilot perform their duties.
- The four trainees – Captains Adams, Benedict, Deisher, and Rogers – are acquiring route trips, are testing with the USCG for their pilotage endorsements, and are handling vessels in areas where they have their endorsements. The USCG currently suspended license endorsement testing due to the pandemic, and he does not have information when testing will continue.
- The newest trainee, Captain Murney, is gathering route trips and is beginning to handle vessels in areas where he meets the requirements to do so.
- All trainees are presently meeting the recommended benchmarks in the program and are progressing at their own rate.
- The next PEC meeting is scheduled for July 15, 2020, at 7:30 a.m. at the Board office.

Committee Chair Captain Teague responded to Commissioner Prada that all trainees have been training during the pandemic. Commissioner Nyborg thanked Captain Teague and Executive Director Garfinkle for allowing the trainees to continue their training given the impacts of not being able to timely take USCG license endorsement tests.

B) Possible PEC Committee Chair recommendation to the Board to appoint a new PEC Committee member, Captain Shane Wehr, to a four-year term to replace Captain John Carlier. Possible Board action to appoint a new PEC Committee member, Captain Shane Wehr, to a four-year term on the Pilot Evaluation Committee, to replace Captain John Carlier.

PEC Chair Captain Teague reported that Committee member Captain Carlier has been a PEC member since June 2018, and is requesting to leave the Committee principally due to his not fit for duty status. PEC Chair Captain Teague thanked Captain Carlier for his service to the PEC.

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PEC Chair Captain Teague stated that the Committee authorized him to recommend to the Board that Captain Shane Wehr be appointed to the Committee for a four-year term. PEC Chair Captain Teague reported that Captain Wehr began his maritime career in the local commercial fishing fleet, then moved to Westar Marine Services and worked aboard their tug boats for 13 years in all licensed and unlicensed capacities. Prior to Captain Wehr joining the Board's Pilot Trainee Training Program, he worked for Foss in the Bay as captain aboard tractor and conventional tug vessels conducting ship assist, tank vessel escort operations, and oil barge movements. Lastly, PEC Chair Captain Teague noted that Captain Wehr became a Board-licensed pilot in June 2008.

MOTION: Commissioner Prada moved that the Board appoint Captain Shane Wehr to a four-year appointment to the Pilot Evaluation Committee.

Commissioner Nyborg seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

- 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. Possible Board action to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program.**

There was no recommendation.

- D) Possible PEC recommendation for a determination that a trainee has or trainees have completed the Pilot Trainee Training Program. Possible Board action to award a Certificate of Completion to a trainee who has completed the Pilot Trainee Training Program.**

There was no recommendation.

- E) Possible recommendation from the Executive Director for the appointment of a new pilot or pilots. Possible Board action to accept a recommendation from the Executive Director that a trainee holding a Certificate of Completion from the Pilot Trainee Training Program be licensed as a state-licensed pilot.**

There was no recommendation.

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

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Executive Director Garfinkle reported that there were no safety standard violations to report on.

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

A) Status report on the event involving the P/V STAR PRINCESS wherein a tugboat made fast to the P/V STAR PRINCESS made unintended contact with Pier 23 in San Francisco on October 2, 2019. Possible Board action to grant the Incident Review Committee an extension to present the P/V STAR PRINCESS report at the Board meeting to be held on July 23, 2020.

Executive Director Garfinkle stated that this agenda item has been deferred to agenda item 15.

B) Status report on the event involving the allision between the T/V POLAR DISCOVERY with the T/V TORM RESILIENCE that was previously moored at the Richmond Long Wharf in Richmond on November 24, 2019. Possible Board action to grant the Incident Review Committee an extension to present the T/V POLAR DISCOVERY report at the Board meeting to be held on July 23, 2020.

Executive Director Garfinkle reported that on November 24, 2019, the T/V POLAR DISCOVERY allided with the T/V TORM RESILIENCE that was previously moored at the Richmond Long Wharf in Richmond. He reported that there was damage to both ships, to the pier, and to the landing arms that were connected to the T/V TORM RESILIENCE. He stated that oil was released, but was contained on the deck of the T/V TORM RESILIENCE, and that no oil went into the water.

Executive Director Garfinkle stated the Incident Review Committee (IRC) is in the process of preparing its report, the 90-day statutory deadline date was February 21, 2020, and he requested an extension to present the IRC report at the July 2020 Board meeting due to staff workload. The IRC is expecting its report to be presented to the Board at the July 2020 meeting.

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MOTION: Commissioner Nyborg moved that the Board grant an extension to the Incident Review Committee to present its report on the T/V POLAR DISCOVERY at the Board meeting to be held on July 23, 2020. Commissioner Carr seconded the motion.

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

ACTION: The motion was approved.

C) Status report on the event involving unintended contact of the M/V VINCENT GENESIS with Levin’s Terminal (RCH 20) in Richmond on December 13, 2019. Possible Board action to grant the Incident Review Committee an extension to present the M/V VINCENT GENESIS report at the Board meeting to be held on July 23, 2020.

Executive Director Garfinkle reported that on December 13, 2019, the M/V VINCENT GENESIS made unintended contact with the corner of Levin Terminal in Richmond (RCH20), and caused damage to the wooden structure of the pier. He reported that the report is not yet complete due to staff workload, that the 90-day statutory deadline was on March 11, 2020, and he requested an extension to present the IRC report at the July Board meeting due to staff workload. He expects the report to be ready to be presented at the August Board meeting. He added that there is no danger to the public due to the delay in presenting this report.

MOTION: Commissioner Carr moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V VINCENT GENESIS at the Board meeting to be held on July 23, 2020. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

D) Status report on the event involving the M/V CHAMPION CONCEPT making unintended contact with the corner of the dock while performing a shift from Berth 8 to Berth 9 in Stockton, California on April 28, 2020.

Executive Director Garfinkle reported that on April 28, 2020, while making a shift from Berth 8 (SCK 8) to Berth (SCK 9) in Stockton, California, the M/V CHAMPION CONCEPT made unintended contact with the corner of the dock between the two berths. He stated that the vessel’s shell plating was deflected, and there was concrete damage to the corner of the dock. He reported that the investigation is still ongoing, that the 90-day

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statutory deadline is on July 26, 2020, and that no Board action is required for this agenda item.

E) Status report on the event involving the M/V HUNDAI NEPTUNE, the M/V HANOVER EXPRESS and the M/V THALASSA AVRA causing the M/V THALASSA AVRA to have multiple parted lines and making contact with a container crane at Berth 37 in Oakland, California on May 21, 2020.

Executive Director Garfinkle reported that the M/V THALASSA AVRA. While moored at Oakland 37, the M/V THALASSA AVRA suffered some damage due to interaction with the M/V HYUNDAI NEPTUNE and the M/V HANOVER EXPRESS, who were passing by. He reported the damage consisted of parted lines and possibly some contact with a container crane. He reported both Board-licensees aboard the passing vessels underwent post-incident chemical testing. He reported the investigation is still ongoing, the 90-day deadline is August 18, 2020, and that no Board action is required for this agenda item.

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

Report on marine casualties, navigational safety and significant incident management cases relevant to the Board as reported by the U.S. Coast Guard in its Prevention / Response – San Francisco Harbor Safety Statistics report for May 2020.

Executive Director Garfinkle reported that the May 2020 Prevention/Response – San Francisco Harbor Safety Statistics reported noted that there was one loss of propulsion event. He also noted there were two vessels that experienced equipment failure, one of which involved parted mooring lines at the Port of Oakland, and the other involved an anchor windlass equipment failure while anchored in Anchorage 9.

12. Navigation Technology Committee (Captain Prada)

A) Report on the Navigation Technology Committee meeting held on June 17, 2020.

Committee Chair Captain Prada reported that the Navigation Technology Committee met on June 17, 2020. The Committee reviewed SFBP Business Director McIntyre’s letter regarding a request to increase the Board-approved navigation technology costs to the maximum statutory amount.

B) Possible recommendation of the Navigation Technology Committee to the Board to approve a request from the San Francisco Bar Pilots for an initial and final authorization for the San Francisco Bar Pilots Benevolent and Protective Association to recover costs for the purchase, lease, or maintenance of navigation

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software, hardware and ancillary equipment different from the \$1,125,036 final amount approved by the Board at its meeting on December 13, 2018. Possible Board action to approve a request from the San Francisco Bar Pilots for an initial and final authorization for the San Francisco Bar Pilots Benevolent and Protective Association to recover costs for the purchase, lease, or maintenance of navigation software, hardware and ancillary equipment different from the \$1,125,036 final amount approved by the Board at its meeting on December 13, 2018.

Committee Chair Prada reported that the Board previously approved \$1,125,036 in navigation technology costs to be recovered by the San Francisco Bar Pilots and Benevolent and Protective Association from the Navigation Technology Surcharge monies, and noted that approximately \$100,000 in previously Board-approved software licenses and support costs for the enhanced route piloting system will not be expended, and that the SFBP is now requesting the Board to consider redirecting this amount along with new navigation technology purchases to increase the total Board-approved navigation technology costs to the maximum \$1.2 million allowed in statutes, and that these additional costs will allow the SFBP to maximize the use of the existing equipment.

Commissioner Prada explained that the SFBP currently uses Rosepoint version 3.1 on its enhanced route piloting systems, and that the company will no longer support the software after the end of this year, and the SFBP is considering either upgrading to Rosepoint version 4.0 or to acquire a subscription to SEAIq (to be used on both the precision docking system and the enhanced route piloting system). He added that SFBPs request contains cost estimates, and that the SFBP is in the process of obtaining final costs. As such, the Committee is requesting the Board to approve a subsequent preliminary authorization, at this time, up to the maximum amount of \$1.2 million.

MOTION: Commissioner Nyborg moved that the Navigation Technology Committee grant approval to the San Francisco Bar Pilots for a subsequent preliminary authorization for the San Francisco Bar Pilots' Benevolent and Protective Association to redirect previous Board-approved navigation technology costs for the purchase of navigation software to different cost items, and to approve new navigation technology costs that together shall not exceed a maximum amount of \$1.2 million. Commissioner Carr seconded the motion.

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

ABSTAIN: None.

ACTION: The motion was approved.

13. Navigation Technology Equipment and Software Acquisition Update (SFBP Business Director McIntyre)

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

SFBP Business Director McIntyre reported that all the current navigation equipment and software are working fine, and that she had no additional comments to add.

14. Presentation and discussion of a request for reasonable accommodation from Captain Carl Martin regarding a medical condition in connection with required manned-model training (Executive Director Garfinkle)

Possible Board deliberation and decision on:

- A) Captain Martin’s medical condition.**
- B) Whether that condition requires a reasonable accommodation in connection with attendance at mandated manned-model training at Port Revel, France.**
- C) What reasonable accommodation should be accorded Captain Martin.**

The Board may go into closed session to discuss Captain Martin’s confidential medical reports as authorized by Harbors and Navigation Code § 1157.1.

Executive Director Garfinkle reported Captain Martin is requesting a reasonable accommodation to obtain manned model shiphandling training in Louisiana, that the Board made an initial accommodation offer for Captain Martin to attend the training with the Board’s contracted training facility in France, and that he is still waiting on a subsequent medical evaluation report from the Board’s physicians. He noted that Captain Martin’s request for reasonable accommodation is not due to his current fitness status or his ability to pilot.

President Connolly called for a short recess.

RECESS STARTED: 11:07 a.m.
RETURNED TO OPEN SESSION: 11:17 a.m.

President Connolly turned the meeting over to Vice President Hayes-White to chair, and assumed his position on the Incident Review Committee (IRC).

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**15. Incident Review Committee incident report on the P/V STAR PRINCESS
(Committee Chair Connolly)**

A presentation of the Incident Review Committee report on the event involving the P/V STAR PRINCESS wherein a tugboat made fast to the P/V STAR PRINCESS made unintended contact with Pier 23 in San Francisco on October 2, 2019. Board deliberation of the Incident Review Committee’s recommendations to the Board and determination regarding the event involving the P/V STAR PRINCESS. The Board may go into closed session for the deliberation of the incident report presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3).

Executive Director Garfinkle presented the IRC report for the P/V STAR PRINCESS, noted that Captain Favro, the pilot aboard P/V STAR PRINCESS, and his attorney, Mr. Clack, are present. He summarized the facts of the incident as follows:

- On the morning of October 2, 2019, the P/V STAR PRINCESS (hereinafter STAR PRINCESS) was inbound from sea to Pier 27 in San Francisco. Captain Andrew Murray piloted the ship from the offshore pilot station to the city front, where he was relieved by Captain Orrin Favro.
- Captain Favro completed a pilot-to-pilot exchange with Captain Murray and a master-pilot exchange with Captain Manfuso, the captain of the STAR PRINCESS. During this exchange they discussed the planned approach of bringing the ship abeam of Pier 23, then backing into the berth, docking portside to at Pier 27.
- As the ship approached Alcatraz, Captain Favro had the crew of the ship take lines from two tugboats - the Z FOUR was made fast on the starboard bow and the DELTA CATHRYN was made fast on the starboard quarter.
- At approximately 0630 hours, the ship was making its approach to Pier 23. When the stern cleared Pier 27, Captain Favro used the stern thruster and DELTA CATHRYN to rotate the ship counter-clockwise, utilizing the ebb current pushing on the starboard bow to assist in the rotation, while backing into the berth.
- When the ship was perpendicular to Pier 27, and approximately halfway through the turn into the berth, the pilot and master relocated from the centerline of the bridge to the port bridge wing, where they could see the face of Pier 27.
- During the approach to the berth, the pilot received a VHF radio transmission from the DELTA CATHRYN that was indicating “the” stern was 20 feet from the dock. Acknowledging without questioning this call, the bridge team interpreted the call to mean the stern of the STAR PRINCESS was 20 feet from Pier 27.

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- In response to this call from the DELTA CATHRYN, the pilot increased the engines from dead-slow ahead to slow-ahead to slow the sternway towards Pier 27. The Master of the STAR PRINCESS requested distance reports from the ship’s crew stationed aft, which resulted in a report of 30 meters off the pier. Based on this report, the pilot continued the counter-clockwise rotation and approach to Pier 27.
- The next communication from the DELTA CATHRYN, as heard by the pilot, was the tug operator indicating “we touched”. This communication did not alarm the pilot, who believed the tug operator was indicating that the tug had “touched-down” on the side of the ship.
- The next communication from the DELTA CATHRYN operator was a request for the pilot to provide the tug with more room to work. Captain Favro began thrusting the stern to port. The STAR PRINCESS captain apparently asked his crew aft for the distance off the starboard quarter to Pier 23 and received a response of 20 meters off. As the STAR PRINCESS was now closing on Pier 27, this distance would continue to open.
- Once alongside Pier 27, the conn was passed from the pilot to the Master of the STAR PRINCESS for the final maneuvering alongside the berth.
- When the pilot was releasing the tugs, the operator of the DELTA CATHRYN reported that the tug had touched some pilings during the evolution and asked the pilot to call him via cell phone.
- A subsequent inspection of the underside of Pier 23 indicated damage caused by the DELTA CATHRYN’s unintended contact with pilings and under-pier support structure.
- The Incident Review Committee (IRC) consists of Commission President Dave Connolly (public member), as Chair, and Executive Director Allen Garfinkle. The IRC prepared this report pursuant to California Harbors and Navigation Code Section 1180.3 and Title 7, California Code of Regulations Section 210.

Executive Director Garfinkle then discussed the evidence and the IRC’s analysis of the passage of the STAR PRINCESS, whether the pilot was proceeding in a reasonable and cautious manner using the skill and care possessed by the average pilot similarly situated would have ordinarily exercised, whether Captain Favro’s actions were reasonable and prudent, and were made using their best judgment. He explained that about halfway through the turn, the pilot moved out of the bridge wing to Pier 27, using the stern thruster, at some point, the pilot received a call that the stern was approaching the pier. This communication was the crux of the incident. He also reported that the incident resulted in substantial damage to three concrete pilings under the pier.

He stated that the pilot was well rested when he got onto the STAR PRINCESS, and his chemical test results were negative. He added that the important lesson from this incident is the need for all parties involved in ship movements to maintain closed loop communication and to ask follow-up questions for clarifications. He also explained that mutual understanding can be mutual misunderstanding. The pilot is unable to be everywhere at once, and must rely on a reliable network of communication and information so he can make

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an accurate assessment. In this incident, the evidence indicates that the critical information from the tug was lacking. For these reasons, the IRC find for no misconduct of the pilot.

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 misconduct on the part of the pilot.
- That this report serves as a lesson learned.
- That this case be closed with no further action.

Commissioner Prada inquired about what instructions did Captain Favro give to the tug. Executive Director Garfinkle responded that the pilot and the tug operator had some discussions of the mooring plan, and that it appeared that the tug operator was well informed of the plan. But while there were many areas of mutual understanding, poor communication led to mutual misunderstanding.

Captain Favro reported to the Board of the following regarding the incident:

- It was discussed on where the tugs be located, and what type of turn to approach the berth, and were aware of the docking plan.
- The plan was also discussed after getting onto the boat. The distance information he received were favorable.
- There were cameras on the cruise ship but he could not see them from his point of view.
- The tug boat does not have a log of engine orders.
- When the vessel was at 20 meters, he was told the vessel is at 30 meters.
- There may be 10 pilots with endorsements to dock cruise ships.
- He has been piloting cruise ships for 4-5 years.
- He transferred the conn to the ship's captain for the final approach as that is customary.
- It's common for cruise ships to have limited space when docking.

Commissioner Carr commented that the communication is critical and the SFBP is set up this way, with a small cadre of cruise ship pilots, so that they handle them often enough to keep the expertise fresh.

It was noted that some of the Commissioners may have more information than others. Board Counsel Eagan reminded the Board to not do their own research. Commissioner Prada commented that a video was made public where the tug boat operators didn't come out to check on the boat. Executive Director Garfinkle did not include the video as part of the evidence presented as it was of limited probative value and highly prejudicial. Commissioner Prada suggested for the Board to view the video prior to making a decision. Assistant Director Cristia-Plant commented that the Commissioners most likely saw the video in the side bar of a website, because she had also seen a video while researching a different topic. Commissioner Carr inquired that if the Executive Director deemed the video

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as unimportant to the investigation, then there is no need for others to see the video. He suggested for the Board to permit the IRC to close this case and complete other investigations.

Board Counsel Eagan suggested that it would be beneficial for all Commissioners to have the additional information prior to having a closed session to deliberate on the decision. He suggested Executive Director Garfinkle to issue a subpoena to obtain an additional Voyage Date Recorder evidence the attorneys may have access to but have not shared.

MOTION: Commissioner Prada moved for the Board to remand the P/V STAR PRINCESS investigation back to the Incident Review Committee to obtain additional evidence on the incident, including sharing videos of the incident with the Board, and return to the Board for further consideration of the P/V STAR P/RINCESS investigation.

VOTE: YES: Hayes-White, Prada, and Nyborg.

NO: Carr and Hoppes.

ABSTAIN: None.

ACTION: The motion was approved.

Vice President Hayes-White yielded the Chair duties back to President Connolly.

16. Public comment on matters not on the agenda.

There were no comments from the public.

17. Proposals for the next Board meeting agenda.

Commissioner Hoppes suggested that a new category of surcharge related to the coronavirus be added. Assistant Director Cristia-Plant noted that AB 1372 will be added to the next agenda to facilitate a further discussion of the bill. There were no additional proposals for the next Board meeting.

18. Adjournment.

MOTION: Commissioner Prada moved to adjourn the meeting. Vice President Hayes-White seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved, and the meeting was adjourned at 12:45 p.m.

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Submitted by:



Allen Garfinkle
Executive Director