

<p>Meeting Date:</p> <p>July 23, 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; left at 11:45 a.m.)
 Captain Robert Carr, Pilot Member
 David Hoppes, Dry Cargo Industry Member (via telephone)
 Captain Einar Nyborg, Pilot Member
 Captain Oscar Prada, Tanker Company Industry Member (via telephone)
 Stephanie Dougherty, 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 Dave McCloy, SFBP; Rex Clack, Esq.; Jennifer Schmid, Past Board President; and Madeline Schmid.

Public Present (via telephone)

Knute Michael Miller, Past Board President; Mike Jacob; Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; Captains Steven Teague, Jeremy Lowe, Bruce Horton, John Carlier, and Christopher Pyne Mercier, SFBP; Captain Dennis Plant, Chevron and retired BOPC-licensee; Christopher Kieliger, Cox Wootton Lerner Griffin & Hansen LLP; John Schneider, Marathon Petroleum.

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 June 25, 2020.

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Board members were presented with the draft minutes from the June 25, 2020, meeting. There was no discussion.

MOTION: Commissioner Nyborg moved to approve the draft minutes of the meeting held on June 25, 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.

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 he had participated in a Zoom conference call with Jennifer Homendy of the National Transportation Safety Board, and they discussed various transportation safety issues.

He also noted that the number of COVID-19 cases have increased recently in California, and that the state currently leads the nation with the most cases.

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 June 25, 2020.

Executive Director Garfinkle reported on the following:

- On June 25, 2020, Board staff received the PMSA *West Coast Trade Report* for June 2020. He stated the report included a reference to the national Retail Federation's Global Port Tracker indicating expected container import traffic to be down 14.6% from last May.
- On June 29, 2020, Board staff received an invitation to attend a virtual U.S. Coast Guard (USCG) District 11 Change of Command ceremony scheduled at the same time as this meeting.
- On July 2, 2020, Board staff received an American Pilots' Association article titled, *American Pilot's Association Comments on State Pilot Commissioners*, dated August

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2017. He stated the document includes recommendations on pilotage rate setting and pilot commission best practices.
- Also on July 2, 2020, Board staff received a letter from the Acting Director of the Department of Resources Recycling and Recovery stating that the Board’s purchases of metal, plastic, and printing/writing paper did not meet the state’s post-consumer content requirements. He noted that the letter indicated that Board staff provided reasonable explanation for non-compliance, and that no corrective action was necessary.
 - On July 6, 2020, Board staff received a copy of a report prepared by Walter Tabler, former Executive Director and General Counsel for the Puget Sound Pilots, titled, *Report on Pilotage Rate Setting Processes in the United States*, dated March 7, 2020.
 - On July 21, 2020, Board staff received a copy of Captain George Livingstone’s *gCaptain* article titled, “Blowin’ in the Wind.”
 - On July 22, 2020, Board staff received a copy of a letter addressed to Governor Newsom, Lieutenant Governor Kounalakis, and members of the State Legislature that was sent on behalf of the 52 trade groups, including PMSA, highlighting the declining market share of west coast ports, impacts to the economy, and suggestions to reverse the impact.

B) Report on pilot licensing matters since the Board meeting held on June 25, 2020.

Executive Director Garfinkle reported that since the June Board meeting, the Board renewed the license of Captain Crowl.

C) Report on Board surcharges.

Executive Director Garfinkle reported that the Board received a check from the SFBP for surcharges collected in June 2020 in the amount of \$142,619.42, itemized as follows:

- Board Operations Surcharge: \$80,429.42
- Pilot Trainee Surcharge: \$42,940.00
- Continuing Education Surcharge: \$19,250.00

D) Report on legislative activities and contractual matters.

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

- On June 22, 2020, the AB 1372 Bonta bill was last amended, 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 fees. The bill also makes other technical changes to the Board’s statutes.

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- On July 1, 2020, the bill was referred to the Senate Committee on Governmental Organization. This committee is scheduled to meet on August 4, 2020, and according to committee staff, it is likely this bill will not be heard since the committee will focus on COVID-19 related legislation.

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

- The amendment to add \$50,000 to the contract with the State Controller’s Office to fund the 2019 pilotage rate and surcharge audit is fully executed.
- The contract amendments with the San Jose State University Research Foundation and the two renewal contracts with the California State University Maritime Academy are fully executed and have been sent to the Department of General Services for final review and approval.
- The contract amendment with Artelia to change the company’s name is fully executed, and the California Highway Patrol will send the amendment to the Department of General Services for final review and approval.
- A three-year, \$112,123 new interagency agreement for information technology support is still with the California Department of Transportation for signature.

Assistant Director Cristia-Plant added that due to current staff workload, no progress has been made on the Board’s workforce and succession plan this past month.

Assistant Director Cristia-Plant responded to Commissioner Nyborg that Mr. Tabler’s pilotage rate setting report was forwarded to Board staff by SFPB Business Director Captain McIntyre. Port Agent Long added that the report was part of the SFBP’s research for AB 1372.

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

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

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 Martin – April 14, 2020
- Captain Pate – May 25, 2020
- Captain Kasper – June 11, 2020
- Captain Tylawsky – June 15, 2020

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

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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 54 licensed pilots, there were approximately 2 MRP exceptions, and that the shortest rest period was 11.3 hours.

B) Monthly report on SFBP ship piloting business activity.

Port Agent Long reported that P/V SAN FRANCISCO went into dry dock on July 15, 2020, for a generator overhaul, American Bureau of Shipping (ABS) certification renewal, and other repairs. Captain McCloy confirmed for Commissioner Nyborg that the dry dock and ABS certificate renewal are expected to be around \$225,000, and costs could increase if there are other items to repair. He also noted that there are more stringent inspection guidelines for older pilot boats.

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

- Bar Crossings: 407 moves
- Bay Moves: 87 moves
- River Moves: 37 moves
- Total Moves: 531 moves
- Gross Registered Tons (GRT): 24.2 million

He also reported that when comparing 2020 year-to-date vessel move data with the same period in 2019, total moves were down 15% and GRT was down 13.5%, resulting in a steep drop in revenue.

President Connolly noted that the number of ship movements has been on a significant downward trend for the last three months. Port Agent Long commented that June was the lowest shipping activity month in 2020.

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.

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There were 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 Nyborg commented that some of the reporting dates on the Port Agent's confidential pilot injury and illness report and the AFMR report have different start dates. Port Agent Long responded that the various doctor notes have different dates, and that some pilots had varying unfit for duty causes.

8. Pilot Evaluation Committee (Captain Teague)

A) Report on the Pilot Evaluation Committee (PEC) meeting held on July 15, 2020.

PEC Chair Captain Teague reported on the following:

- The PEC did not meet on July 15, 2020, due to possible COVID-19 exposure to him and several trainees, and he noted that all tested negative for the virus.
- On July 13, 2020, the shipboard training portion of the training program was suspended due to the possible COVID-19 exposure, and the trainees were instructed to remain engaged in the program by studying for pilotage exams, reviewing shiphandling publications, nautical charts of the area, reviewing their personal notes regarding maneuvering at various berths, and to staying up to date with the Local Notice to Mariners.
- On July 20, 2020, trainee shipboard training was resumed.
- The eight current trainees are Captains Adams, Benedict, Burchard, Deisher, Murney, Nelson, Rogers, and Stevens. The range of time in the program for these trainees is 3 months to 36 months. One trainee, Burchard, is in the evaluation stage.
- 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 handled vessels as much as possible, with an occasional observation trip to watch a licensed pilot perform their duties.
- Five trainees – Captains Adams, Benedict, Deisher, Murney, and Rogers are in the final stages of acquiring route trips, and are handling vessels in areas where they have their endorsements. These five are in a holding pattern with testing for federal pilotage endorsements while the United State Coast Guard (USCG) suspended testing during the present pandemic situation.
- On July 8, 2020, the USCG issued a letter noting that license endorsement testing is still suspended, and no date as to when testing will resume.
- 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 August 19, 2020, at 7:30 a.m. at the Board office.

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PEC Chair Captain Teague confirmed for Commissioner Nyborg that five of the trainees still need to take tests with the USCG for their pilotage endorsements, three trainees have completed all tests, one of these trainees is in evaluation stage, with a second trainee soon to enter the evaluation stage.

There was a discussion that the lack of pilot license endorsement testing is holding the progression of trainees in the training program. PEC Chair Captain Teague responded to Commissioner Prada that it might be possible for the USCG to provide testing at other than at the USCG testing center. Commissioner Carr requested Board staff to draft a letter to the USCG, and offer an alternate location to the USCG so that trainees can take their license endorsement tests.

- 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 probation, or dismiss one or more trainees from the program.**

There was no recommendation.

- C) 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.

- D) 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.)**

Executive Director Garfinkle stated 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.)**

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A) 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 August 27, 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 August 2020 Board meeting due to staff workload. He added that there is no danger to the public due to the delay in presenting this report.

Commissioner Nyborg was concerned that this investigation isn't closing quickly, and was wondering if there were certain pieces of vital information still needed. President Connolly stated that information was requested under a Freedom of Information Act (FOIA), which has prolonged the investigation.

MOTION: Commissioner Hayes-White 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 August 27, 2020. Commissioner Prada seconded the motion.

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

ACTION: The motion was approved.

B) 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 August 27, 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

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(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 August Board meeting due to staff workload. He added that there is no danger to the public due to the delay in presenting this report.

Executive Director Garfinkle responded to Commissioner Carr that even though this case may seem like an easier case, he is still waiting on a response to a request regarding the damages incurred.

MOTION: Commissioner Nyborg 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 August 27, 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 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. Possible Board action to grant the Incident Review Committee an extension to present the M/V CHAMPION CONCEPT report at the Board meeting to be held on August 27, 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 statutory deadline is on July 26, 2020, and he requested an extension to present the IRC report at the August 2020 Board meeting.

MOTION: Commissioner Nyborg moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V CHAMPION CONCEPT at the Board meeting to be held on August 27, 2020. Commissioner Hayes-White seconded the motion.

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

ACTION: The motion was approved.

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D) 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. Possible Board action to grant the Incident Review Committee an extension to present the M/V HUNDAI NEPTUNE and the M/V HANOVER report at the Board meeting to be held on August 27, 2020.

Executive Director Garfinkle reported that the M/V THALASSA AVRA, while moored at Oakland 37, suffered some damage due to interaction with passing vessels, the M/V HYUNDAI NEPTUNE and the M/V HANOVER EXPRESS. 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 he requested an extension to present its report at the August 2020 Board meeting. He added that there is no danger to the public due to the delay in presenting this report.

Executive Director Garfinkle clarified for Commissioner Hoppes that while an incident may appear simple on the surface, an interaction event, which this event is, involves not only examination of the passing vessels, but also an examination of whether the moored vessel was properly moored. Commissioner Nyborg responded to Commissioner Hoppes that an incident involving parted mooring lines does not necessarily mean the passing vessels were moving too fast, and that there could be other evidence such as an improperly moored vessel, that contributed to the event.

MOTION: Commissioner Carr moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V THALASSA AVRA at the Board meeting to be held on August 27, 2020. Commissioner Hayes-White seconded the motion.

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

ACTION: The motion was approved.

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 June 2020.

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Executive Director Garfinkle reported that the June 2020 Prevention/Response – San Francisco Harbor Safety Statistics reported that there was no loss of propulsion events, but there was one “Rule 9” violation event on June 27, 2020, and the case is still pending.

12. Pilot Continuing Education Committee (Captain Nyborg)

A) Report on the Pilot Continuing Education Committee meetings held on July 1, 2020, and July 15, 2020.

Committee Chair Commissioner Nyborg reported that the Pilot Continuing Education Committee met on July 1, 2020, and July 15, 2020. The Committee reviewed the Combination Course training program at the California State University Maritime Academy, discussed changing the curriculum to reduce the number of training days, and began work on procuring the next Manned Model training provider since the current manned model training contract will expire June 30, 2021. He stated the Committee will meet again on August 4, 2020, and anticipates that the Committee will provide the Board with a proposal regarding Combination Course curriculum changes at the August Board meeting.

B) Report on the Pilot Continuing Education Program manned model training requirements and the contents of a request for information document to obtain information from manned model training providers from which to develop a request for proposal contractor procurement document. Possible Committee recommendation to the Board to approve a request for information document to obtain information from manned model training providers from which to develop a request for proposal contractor procurement document.

Committee Chair Commissioner Nyborg reported that the Committee reviewed and discussed the manned model training requirements and the technical contents of a request for information (RFI) document to obtain information from the six manned model training providers from which to develop a request for proposal contractor procurement document.

He noted that the proposed technical component of the RFI contains two substantive changes from the previous 2014 RFI. He stated the Committee added two training topics expected to be provided by the new contractor involving emergency maneuvers with tanker escorts, and entering a bar channel with a heavy quartering swell while piloting a deep draft Ultra Large Container Vessel. Assistant Director Cristia-Plant stated that if the Board approved the proposed RFI technical component, Board staff will work with the California Highway Patrol contract staff to complete the RFI, and will send the RFI out to the six manned model training providers.

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- MOTION:** Commissioner Carr moved that the Pilot Continuing Education Committee be granted approval to issue a manned model training provider request for information document consistent with the technical request for information document presented to the Board by the Pilot Continuing Education Committee. Commissioner Prada seconded the motion.
- VOTE:** YES: Connolly, Carr, Hayes-White, Hoppes, Nyborg, and Prada.
NO: None.
ABSTAIN: None.
- ACTION:** The motion was approved.

13. Pilot Power Committee (Captain Carr)

A) Report on the Pilot Power Committee meeting held on July 16, 2020.

Committee Chair Captain Carr reported that the Pilot Power Committee met on July 16, 2020, and reviewed the results of the Pilot Retirement survey that was conducted in July 2020, and discussed the report submitted to the Board by the San Francisco Bar Pilots that contained information required in Title 7, California Code of Regulations, §237(d).

B) Report on the Committee’s review and discussion of the Pilot Retirement Survey conducted in July 2020, its review of the most recent data required in Title 7, California Code of Regulations, §237(d), the adequacy of the current number of pilots and pilot trainees, and projected pilot and trainee needs through 2023. Possible Board action on the Committee’s recommendation to contract with one or more trainees in the Pilot Trainee Training Program.

Committee Chair Captain Carr reported that there are currently 54 pilots, 8 trainees in the Pilot Trainee Training Program, and 11 pilots projecting to retire in the next 2 ½ years. He stated the Committee discussed increasing the maximum number of trainees in the pilot training program from 8 to either 9 or 10, that the Committee voted to recommend to the Board to increase the maximum number of trainees from 8 to 9, and that doing so will require an increase to the Board’s training budget. However, since the Committee met, he had discussions with Board staff about the length of time and effort it takes to complete a budget change proposal, and would like the Board instead to consider raising the maximum number of trainees in the training program at any one time from 8 to 10, and noted that the higher maximum number of trainees in the program at any one time will give the Board more flexibility to meet its pilot licensing needs.

Executive Director Garfinkle concurred, and noted that the maximum number of trainees that can be supported by the current training budget is 8 trainees at one time, and that a budget change proposal, if approved by the Legislature, would not go into effect until July 1, 2021.

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Commissioner Nyborg commented that even though the pilots' workload is currently down, and the USCG has delayed the pilot trainee training program by halting the license exam process, it is still a good idea to increase the maximum number of trainees in the pilot training program to 10 trainees since it will give the Board more flexibility to meet future need for licensed pilots. PEC Chair Captain Teague stated that the PEC Committee supports increasing the maximum number of trainees in the pilot trainee program to 10, and that the PEC Committee members want that option if there is a need for the Board to issue more pilot licenses.

Executive Director Garfinkle added that two pilots have already retired this year, and he received a notification from another pilot planning to retire on October 1, 2020. Captain McCloy noted that it's hard to project when a trainee will complete the trainee program.

MOTION: Commissioner Prada moved that the Board increase the maximum number of trainees in the Pilot Trainee Training Program from eight trainees to ten trainees, subject to sufficient budgetary authority. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

14. Navigation Technology Committee (Captain Prada)

A) Report on the Navigation Technology Committee meeting held on July 16, 2020.

Committee Chair Captain Prada reported that the Committee met on July 16, 2020. The Committee reviewed new cost estimates for the navigation technology software and hardware presented by the San Francisco Bar Pilots.

B) Report on the Committee's review and discussion of a request from the San Francisco Bar Pilots for a subsequent 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 not to exceed \$1,200,000, and consistent with the subsequent preliminary authorization approved by the Board on June 25, 2020. Possible Board action on the Committee's recommendation to approve a request from the San Francisco Bar Pilots for a subsequent 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 not to exceed \$1,200,000,

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and consistent with the subsequent preliminary authorization approved by the Board on June 25, 2020.

Committee Chair Captain Prada reported that the San Francisco Bar Pilots have requested to increase the Board-approved navigation technology purchases to the maximum amount of \$1.2 million, and that the request involves a redirection of approximately \$100,000 in previously Board-approved software costs, to purchase new software that will extend the useful life of already purchased hardware, and to purchase new hardware to complement the existing hardware. He stated the Committee recommends that the Board grant a final authorization to the SFBP’s Benevolent and Protective Association to recover the cost of navigation technology not to exceed the \$1.2 million as outlined in the staff reports presented to the Board, and which request is consistent with the Board’s preliminary authorization approved at its June 2020 Board meeting. Committee Chair Captain Prada noted that Mr. Jacob was appreciative of efforts made by the SFBP to facilitate the continued the use of previously purchased navigation technology equipment with its request to increase Board-approved navigation technology costs.

MOTION: Commissioner Carr moved that the Board approve a final 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 costs items, and to approve new navigation technology costs that together shall not exceed a maximum amount of \$1.2 million consistent with the Navigation Technology Final Cost/Estimate submitted to the Board. Commissioner Hoppes seconded the motion.

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

ACTION: The motion was approved.

Assistant Director Cristia-Plant noted that the pilots have requested that the Board provide train-the-trainer training to 4-5 pilots from a trainer licensed by SEAIq, with the intention that the trained pilots will train other pilots on the new software. She stated that Board Counsel confirmed that Pilot Continuing Education Surcharge funds can be used to pay for this training, and that Executive Director Garfinkle will enter into a small contract under his Board-delegated contracting authority for this training, and that he will report back to the Board once the training contract is in place.

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

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

SFBP Business Director Captain McIntyre explained to the Board that as part of the previous Board agenda item on Navigation Technology costs, the SFBP developed two cost proposals that described the new navigation technology costs, with one proposal totaling \$176,991, and the second proposal totaling \$212,511. She explained that the smaller amount is included in the \$1.2 million total final navigation technology authorized amount approved by the Board, but that the larger amount reflects additional software costs associated with the new equipment that will be borne by the pilots.

She also noted that the exact costs of some navigation technology line items are not yet known, and may come in under budget, and it is the SFBP’s intent to purchase items in the categories listed in the Board-approved cost proposal to the maximum authorized by the Board. President Connolly, Mr. Jacob and Commissioner Prada all agreed that the Board’s navigation technology final authorization approval was for a maximum \$1.2 million in navigation technology purchases for the kind of items listed in the SFBP’s proposal. Executive Director Garfinkle reminded the Board that the Board previously charged the Finance Committee with approving the use of Navigation Technology Surcharge revenue to reimburse the pilots for Board-approved projected navigation technology costs.

Vice President Hayes-White left the meeting at 11:45 a.m.

The next two agenda items were taken out of order and discussed together.

19. Board discussion of Assembly Bill 1372 (Bonta) that would, among other things, revise the process for changing the rates of bar pilotage fees to instead require the Board to adopt a schedule of pilotage fees. Possible Board recommendations to the Legislature support or not support Assembly Bill 1372 (Bonta) that would, among other things, revise the process for changing the rates of bar pilotage fees to instead require the Board to adopt a schedule of pilotage fees, and possible recommendations to the Legislature for amendments to the bill. (Executive Director Garfinkle/Assistant Director Cristia-Plant)

18. Board discussion of a temporary Board-approved surcharge or increase in the mill rate in response to the COVID-19 pandemic, including the potential applicability of the statutory provisions contained in Harbors and Navigation Code § 1190 (a)(1)(C). (Executive Director Garfinkle/Assistant Director Cristia-Plant)

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Executive Director Garfinkle stated that the agenda item on AB 1372 is an opportunity for the Board to discuss the bill at an open meeting, and as an independent board, the Board could take a position on the bill if it chooses to do so.

SFBP President Long spoke at length and stated:

- The pilots' current fiscal situation is grim and is not sustainable.
- The current revenue projections are dismal, and the only opportunity to rectify is through legislation.
- The SFBP has been working on revising the pilotage rate setting process and related legislation for several years now.
- The pilots are sponsors of AB 1372, and the bill provides a pilotage rate-setting mechanism that is used in other states with the Board to set pilotage rates, including the requirement for an administrative law judge to ensure a fair process, and contains a sunset date.
- The SFBP has researched the opportunity to have the California Public Utilities Commission (PUC) involved in pilotage rate-setting, but that prospect appears unwelcomed by the PUC.
- Providing on-demand 24/7 pilotage services requires a certain level of costs, and if pilotage revenue is not increased, then services may need to be reduced.
- The SFBP has already deferred non-critical expense items. About \$4.8 million/month is needed to cover normal operating costs and pilot income, which has been reduced to \$2.5 million/month. He also reported that SFBP is considering staff layoffs and reductions in the availability of pilotage services.

Mr. Jacob stated PMSA strongly opposes the bill, that he does not disagree with the issues expressed by SFBP President Long regarding the negative fiscal impacts to the pilots this year from the pandemic, but that he questions the need to change to the current pilotage rate setting process to achieve a short-term benefit. He noted that the rate-setting process proposed by the bill would take up to two years to change pilotage rates, and that the proposed legislation would not address the pilot's current fiscal issues. He also stated that the bill would increase Board staff workloads. He stated the shipping industry is open to discussing potential changes to the pilotage rate setting process, and solutions to the pilots' short-term financial constraints.

Commissioner Nyborg commented that the pilots have much experience with the current Legislative pilotage rate setting process, and that the pilots have tried for the last 14 years to obtain needed pilotage rate changes to no avail. He also stated that there is a current contraction in the economy, that the pilots cannot continue providing services as they always have, that he believes the Board can be objective when setting pilotage rates, but that something has to change both in the short term and in the long term.

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Commissioner Hoppes stated that he would like to support the bill, but noted that the pilots' current fiscal situation requires a quicker solution such as an emergency surcharge. Commissioner Carr concurred that there is an immediate pilot fiscal situation that needs to be solved.

Commissioner Prada queried if there have ever been stakeholder discussions of a target income for pilots. SFBP President Long stated that the public looks at pilot income, but not necessarily the cost of running a pilotage business. He stated that there is nothing left to cut in the SFBP's operations.

President Connolly commented that the past Board Presidents have served as the facilitator between the shipping industry and the pilots regarding pilotage rates, and that he would be amenable to providing this assistance.

Dave Hoppes left the meeting at 12:15 p.m.

Ms. Dougherty stated that CalSTA appreciated today's the discussion of the legislation and stakeholder issues, that she encourages the parties to continue the discussions to come to some consensus, and requested the parties to keep CalSTA apprised of progress.

Mr. Jacob commented that changes are possible in Sacramento, but to make changes successful, it will be helpful to have the pilots provide an explanation and documentation of the fiscal issues and potential impacts to pilotage services. He added that it's important go to the Legislature with solid solutions so that any statutory changes will be effective and achieve the goals of all stakeholders.

Commissioner Nyborg discussed the opportunity to provide a short-term solution to the pilots' fiscal issues and referred to Section 1190(a)(1)(C) in the Harbors and Navigation Code (HNC). He noted that the staff report states that Board Counsel reviewed this section of the HNC and determined that this statute only addresses pilot fiscal issues related to a "catastrophic cost increase to the pilots" of a certain magnitude, and does not allow the Board to temporarily raise the mill rate to address a revenue reduction resulting from lower demand for pilotage services.

Business Director Captain McIntyre and SFBP President Long requested the Board to direct staff to assist with modifying the HNC section to address catastrophic revenue reductions to pilots to address the pilots' short-term fiscal situation due to reductions in shipping volumes and related pilot revenue, to work on a longer term legislative solution to the pilotage rate-setting process, and to work with CalSTA on these legislative changes. President Connolly commented that Board staff can assist with the skeletal structure of proposed legislation, but the content of any proposed legislation will likely be a collaborative effort by the stakeholders.

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Board Counsel Eagan commented that President Connolly has volunteered to facilitate stakeholder discussions, and his volunteering does not require Board action.

Mr. Jacob stated that it makes sense for the stakeholders to have conversations regarding the pilots' fiscal issues. He noted that other industries are cutting costs due to the pandemic, and that he would like any legislative changes to be effective and achieve the needs of all stakeholders. He noted that given the pilots' current fiscal situation, any legislation to provide immediate fiscal relief to the pilots should include an emergency provision, and that there likely won't be sufficient time to resolve long-term pilotage rate setting issues in the next several weeks when bills for this session are being finalized.

President Connolly announced that due to how long the meeting has gone, he is postponing agenda item 16 and 17 to the next Board meeting, scheduled for August 27, 2020. Board Counsel Eagan confirmed that there isn't a quorum for agenda item #17, so no Board action can be taken on this agenda item.

16. 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.

17. Incident Review Committee follow-up incident report on the P/V STAR PRINCESS (Committee Chair Connolly)

A follow-up 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. Continued Board deliberation of the Incident Review Committee's recommendations to

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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 reported to the Board that he received an objection to the subpoena to obtain the vessel data (VDR) recorder from the P/V STAR PRINCESS, and will discuss with the Attorney General he has been working with about enforcing the subpoena. Commissioner Prada stated that he believes the information provided from the VDR will be important to this investigation. Mr. Clack, pilot's counsel, reported that he has no additional information to add.

18. Public comment on matters not on the agenda. (President Connolly)

There were no comments from the public.

19. Proposals for the next Board meeting agenda. (President Connolly)

Pilot Continuing Education Committee Chair Nyborg stated that the Committee intends to make a recommendation to the Board at the August meeting regarding changes to the combination course training.

20. Adjournment.

MOTION: Commissioner Nyborg moved to adjourn the meeting. Commissioner Prada seconded the motion.

VOTE: YES: Connolly, Carr, Nyborg, and Prada.

NO: None.

ABSTAIN: None.

ACTION: The motion was approved, and the meeting was adjourned at 1:09 p.m.

Submitted by:



Allen Garfinkle
Executive Director