

<p><b>Meeting Date:</b> <b>October 22, 2020</b></p>	<p><b>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</b></p> <p><b>BOARD MEETING MINUTES</b></p>	<p><b>Page 1 of 18</b></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 (via telephone)  
 David Hoppes, Dry Cargo Industry Member (via telephone)  
 Captain Einar Nyborg, Pilot Member (via telephone)  
 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 (via telephone)  
 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 John Carlier, Acting Port Agent; Captain Anne McIntyre, SFBP Business Director; Captains Steve Teague and David McCloy; SFBP; and Rex Clack, Esq.

**Public Present (via telephone)**

Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; and Captains Nicholas Rogers and Nicholas Deisher, BOPC Pilot Trainees.

**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 meetings held on September 24, 2020 and October 7, 2020.**

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Board members were presented with the draft minutes from the September 24, 2020, meeting. Board Counsel Eagan clarified for Commissioner Nyborg that the Board is able to itself adjust rates in response to a catastrophic cost increase, but is unable to address the pilots' loss of revenue issue.

**MOTION:** Vice President Hayes-White moved to approve the draft minutes of the meeting held on September 24, 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.

Board members were presented with the draft minutes from the October 7, 2020, meeting. Port Agent Long requested minor edits to the minutes. There was no further discussion.

**MOTION:** Commissioner Nyborg moved to approve the draft minutes of the meeting held on October 7, 2020, as amended. 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 Board staff provided him with updates regarding outstanding managerial and administrative issues, and he noted that some of the topics are on this Board agenda. Both President Connolly and Vice President Hayes-White stated that they will ensure the public has a chance to comment on all agenda items.

### **5. Board Member Announcements and Activities (Board Members)**

Ms. Dougherty stated that she had several discussions with Board staff over the past month, including discussions of items on the agenda. She also reported that CalSTA staff met with representatives from PMSA, Cruise Lines International Association (CLIA), the Western States Petroleum Association (WSPA), and the SFBP.

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## **6. Directors' Report (Executive Director Garfinkle/Assistant Director Cristia-Plant)**

### **A) Correspondence and activities since the Board meeting held on September 24, 2020.**

Executive Director Garfinkle reported on the following:

- On September 24, 2020, Board staff received the PMSA *West Coast Trade Report* for September 2020.
- On September 25, 2020, Board staff received a PMSA letter from Mr. Jacob addressed to Captain Long requesting the formal retraction of a public statement made by Captain Long made at the August 2020 Board meeting.
- On September 28, 2020, Board staff received the Board of Pilot Commissioners of Pilots of the State of New York's *166<sup>th</sup> Annual Report to the Governor and Legislature for 2019*.
- On October 1, 2020, Captain Jonathan Olmsted entered the Pilot Trainee Training Program.
- Also on October 1, 2020, he met with Commission Investigator Michael O'Callaghan, to obtain assistance with the Incident Review Committee's (IRC) investigation report on the M/V VINCENT GENESIS.
- Also on October 1, 2020, the Board received a copy of Marine Safety Bulletin 08-20, Change 4, that further extended merchant mariner credential endorsements, medical certificates and course approvals.
- On October 9, 2020, he attended the Harbor Safety Committee meeting.
- On October 9, 2020, he met with Commission Investigator Captain Jeffrey Hill to obtain assistance with the IRC investigation report on the M/V CHAMPION CONCEPT.
- Also on October 9, 2020, Board staff received a Public Records Act request from former pilot trainee Captain Burchard requesting all copies of his training records.
- On October 12, 2020, he received an email from Eusebio Fabia notifying him that the Hercules office of the State Lands Commission has a new supervisor, Ronald Maria, effective October 23, 2020.
- On October 14, 2020, he received a copy of a letter for SFBP President Captain Long responding to Mr. Jacob's letter dated September 25, 2020.
- On October 15, 2020, he received a letter brief from Rex Clack, Esq., on behalf of Captain Kirk, regarding the IRC investigation of the M/V POLAR DISCOVERY incident.
- On October 15, 2020, Board staff received a link to Captain Livingstone's *gCaptain* article titled, *Into the Breach*.
- On October 17, 2020, he received an email from attorney George Nowell notifying him that he is representing former trainee Captain Burchard.

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- On October 21, 2020, after requesting documents to verify the damages at the Levin Richmond Terminal that was caused by unintended contact by the M/V VINCENT GENESIS on December 13, 2019, he received a request for prompt payment. He stated that contacted the Levin Terminal representative, Andrew Winkler, and informed him that the Board does not pay for damages caused by BOPC-licensees.

**B) Report on pilot licensing matters since the Board meeting held on September 24, 2020.**

Executive Director Garfinkle reported that since the September Board meeting, the Board has not issued any license renewals.

**C) Report on Board surcharges.**

Executive Director Garfinkle reported that the Board received a wire from SFBP for the surcharges collected in September 2020 in the amount of \$202,908.94, itemized as follows:

- Board Operations Surcharge: \$132,443.94
- Continuing Education Surcharge: \$ 23,835.00
- Pilot Trainee Surcharge: \$ 46,630.00

**D) Report on legislative activities and contractual matters.**

Assistant Director Cristia-Plant stated that there were no legislative activities to report.

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

- Staff will commence amending the contract with the Maritime Academy for pilot continuing education to change the scope of work and budget from a 6-day class to a 5-day class.
- The 2019 surcharge and pilotage audit conducted by the State Controller's office is still wrapping up. State Controller's Office staff received final responses from the SFBP on the last few outstanding items for the audit.
- No work was done on the manned model training provider procurement this past month due to staff workload. Staff confirmed that the current contract with Artelia may be extended since two classes were cancelled.

Assistant Director Cristia-Plant also reported that Board staff was successful in upgrading the vacant Associate Governmental Program Analyst position to a Staff Services Manager I (Specialist) position. She stated the job announcement has been posted and applications are due on October 23, 2020. She noted that job duties have been expanded

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with regard to trainee and pilot training program administration, pilot licensing, and pilot and trainee fitness oversight.

Commissioner Nyborg thanked Board staff for the work on the continuing education and manned model issues, and for Assistant Director Cristia-Plant's work with the contracts. He commented that it seems reasonable to extend the contract with Artelia instead of creating a new contract, and he suggested putting off for one year in finding a new manned model facility. He also commented about the potential to amend the regulations from requiring pilot continuing education every 5 years to every 6 years.

## **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 Kasper – June 11, 2020
- Captain Tylawsky – June 15, 2020

He added that he has been receiving regular AFMR report updates for these pilots except for one pilot, and may need assistance from the Board to obtain the report updates.

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 of 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 scheduled 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 52 licensed pilots, that there was 1 MRP exception in September, and that the shortest rest period was 11.2 hours.

### **B) Monthly report on SFBP ship piloting business activity.**

For the month of September 2020, Port Agent Long reported that P/V GOLDEN GATE was out of service for three days from October 5, 2020, due to blockage in the fuel line and debris in the tank.

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

- Bar Crossings: 452 moves
- Bay Moves: 139 moves
- River Moves: 54 moves
- Total Moves: 645 moves
- Gross Registered Tons (GRT): 26.6 million

He also reported that when comparing 2020 year-to-date vessel move data with the same period in 2019, total moves were down 14.75% and GRT was down 14.3%. He stated that billings were further down in September and October, and that the SFBP projects a \$6-7 million shortfall in 2020.

Commissioner Nyborg was concerned to hear that one pilot has been non-responsive to the Port Agent about his medical status reports. Executive Director Garfinkle stated that he is inquiring into the matter.

Port Agent Long noted that Mr. Jacob was concerned about a comment he had made about him at the August Board meeting, and noted that the August Board meeting minutes approved by the Board at the September meeting did not accurately reflect his comments, and that he has since contacted Mr. Jacob to explain that there was a misunderstanding of his comments. Mr. Jacob confirmed that President Long did contact him about a misunderstanding of his comments at the August Board meeting and in the minutes, and thanked him for the discussion. Both President Long and Mr. Jacob agreed to withdraw their various letters to the Board on the misunderstanding, and agreed to continue discussion between the two parties on the SFBP's fiscal issues. President Connolly and Vice President Hayes-White expressed thanks at the resolution of the miscommunication and noted that both President Long and Mr. Jacob are well-respected in the industry.

**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.

**8. Pilot Evaluation Committee (Captain Teague)**

**A) Report on the Pilot Evaluation Committee (PEC) meeting held on October 14, 2020.**

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PEC Chair Captain Teague reported on the following:

- The PEC met on October 14, 2020, and in attendance were Committee members Captains Haggerty, Slack, Wehr, and Teague.
- The PEC provided Executive Director Garfinkle a report of trainee activity over the past month.
- 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, Deisher, Murney, Olmsted, Rogers, Stevens, and Weber. Captain Nelson is on a two-month leave of absence as granted by the Board on August 28, 2020. The range of time in the program for these trainees are 3 weeks to 21 months.
- Captain Stevens has his full unlimited federal pilotage endorsements on his federal mariner credentials, and is in the evaluation stage of the Pilot Trainee Training Program.
- Captains Benedict and Rogers have completed all testing and have advanced into Evaluation Stage at the October 14, 2020, meeting.
- Captains Adams, Deisher, and Murney are in the final stages of acquiring route trips, and are handling vessels in areas where they meet the present requirements.
- Captain Weber is presently testing, observing, and acquiring route trips and beginning to partial handle.
- Captain Olmsted started the training program on October 1, 2020, with an all-day orientation. He is presently observing vessels while acquiring route trips and gaining familiarity with the program.
- 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 November 4, 2020, at 7:30 a.m. at the Board office.

Executive Director Garfinkle commented that Captain Olmsted was a former Master of the hospital ship USNS MERCY, which had been deployed to assist in the pandemic response.

**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.

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- C) Presentation of written PEC recommendation to the Board that the Board not determine that Captain David Burchard has successfully completed the Pilot Trainee Training Program and that the Board not issue to him a certificate of completion of the Pilot Trainee Training Program. The written recommendation will set forth the basis for the PEC’s decision at its August 19, 2020, meeting to not recommend issuance to Captain Burchard of a certificate of completion. Board determination whether Captain David Burchard has successfully completed the Pilot Trainee Training Program and whether to issue to him a certificate of completion.**

PEC Chair Captain Teague reported that the PEC met on October 2, 2020, and October 14, 2020, and finalized a statement to the Board explaining the PEC’s determination to not recommend to the Board that Captain Burchard be granted a certificate of completion from the Pilot Trainee Training Program. Board Counsel Eagan commented that this agenda item will be continued to the November Board meeting, as a request for continuance by Captain Burchard’s attorney was granted by President Connolly.

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

There was no recommendation.

- E) Possible recommendation from the Executive Director for the Board to issue a state pilot license to a trainee who holds a Certificate of Completion from the Pilot Trainee Training Program. 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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Executive Director Garfinkle reported that with the assistance of the Commission Investigators, some of the outstanding IRC reports are expected to be completed by the end of this year. He confirmed that even though the IRC obtains assistance with its investigation reports from Commission Investigators, the IRC is still responsible for the completion of the report and presentation to the Board of its recommended decision.

**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 November 12, 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 investigation is complete, that the IRC is in the process of preparing its report, that he has not received the U.S. Coast Guard’s incident report yet, and that he is still awaiting medical evaluation information from the Board’s physicians. He requested an extension to present its report at the November Board meeting.

**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 November 12, 2020. Commissioner Prada seconded the motion.

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

**ACTION:** The motion was approved.

**B) Status report on the event involving the M/V VINCENT GENESIS making unintended contact 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 November 12, 2020.**

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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 IRC is seeking incident report preparation assistance from one of the Commission Investigators. He requested an extension to present the IRC report at the November 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 November 12, 2020. Commissioner Hayes-White seconded the motion.

**VOTE:** YES: Connolly, Hayes-White, Carr, 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 November 12, 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 IRC is obtaining investigation report assistance from Commission Investigator Captain Hill, and he requested an extension to present the IRC report at the November 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 November 12, 2020. Commissioner Hoppes seconded the motion.

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

ABSTAIN: None.

**ACTION:** The motion was approved.

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- D) Status report on the event involving an interaction between the M/V HYUNDAI 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 HYUNDAI NEPTUNE and the M/V HANOVER report at the Board meeting to be held on November 12, 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 the investigation is still ongoing, and he requested an extension to present the IRC report at the November 2020 Board meeting. He added that there is no danger to the public due to the delay in presenting this report.

**MOTION:** Commissioner Hayes-White 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 November 12, 2020. Commissioner Prada seconded the motion.

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

**ACTION:** The motion was approved.

- E) Status report on the event involving an interaction between the M/V JIANGMEN TRADER and the moored M/V STRATEGIC ALLIANCE causing the M/V STRATEGIC ALLIANCE to have two parted spring lines at Berth #6 in Pittsburg on July 23, 2020. Possible Board action to grant the Incident Review Committee an extension to present the M/V JIANGMEN TRADER report at the Board meeting to be held on November 12, 2020.**

Executive Director Garfinkle reported that on July 23, 2020, the M/V JIANGMEN TRADER interacted with the moored M/V STRATEGIC ALLIANCE at berth #6 in Pittsburg, California, causing the M/V STRATEGIC ALLIANCE to have two parted spring lines. He reported that the investigation is still ongoing, and the 90-day deadline is October 20, 2020. He requested an extension to present the IRC report at the November 2020 Board meeting. He added that there is no danger to the public due to the delay in presenting this report.

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**MOTION:** Commissioner Carr moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V JIANGMEN TRADER at the Board meeting to be held on November 12, 2020. Commissioner Nyborg seconded the motion.

**VOTE:** YES: Connolly, Hayes-White, Carr, 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 September 2020.**

Executive Director Garfinkle reported that the September 2020 Prevention/Response – San Francisco Harbor Safety Statistics reported that there were three loss of propulsion events, all were from U.S. flagged commercial fishing vessels, and no loss of propulsion events involved Board-licensed pilots.

#### **12. Pilot Boat Advisory Committee (Commissioner Carr)**

##### **A) Report on the Pilot Boat Advisory Committee meeting held on October 6, 2020.**

Pilot Boat Advisory Committee Chair Captain Carr reported that the Committee met on October 6, 2020, and discussed the necessity for the replacement of the P/V GOLDEN GATE.

##### **B) Report on the Committee’s review and discussion of a request and supporting documentation from the San Francisco Bar Pilots and the San Francisco Bar Pilots’ Benevolent and Protective Association for a Necessity Determination for the purchase of a replacement vessel for the P/V GOLDEN GATE pursuant to Title 7, California Code of Regulations Section 236.1. Possible Board action to approve a request and supporting documentation from the San Francisco Bar Pilots and the San Francisco Bar Pilots’ Benevolent and Protective Association for a Necessity Determination for the purchase of a replacement vessel for the P/V GOLDEN GATE pursuant to Title 7, California Code of Regulations Section 236.1. (Commissioner Carr)**

Committee Chair Captain Carr reported that Committee members were presented with a request for a necessity determination from Port Agent Long, including supporting documentation for the replacement of the P/V GOLDEN GATE. He noted that the

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following information was presented by Captain McCloy and Captain McIntyre supporting a necessity determination to replace the P/V GOLDEN GATE:

- Although there was a service life capital improvement extension done in 2007, the P/V GOLDEN GATE is reaching the end of its service life documented in a *Condition and Valuation Survey/ Appraisal Report* that was completed by Teicheira Maritime Surveyors, Inc. in September 2020. He noted that the surveyor’s report listed the effective age of the vessel at 27 years.
- Updated California Air Resource Board (CARB) regulations will require P/V GOLDEN GATE be compliant with emission requirements by 2024, but the vessel does not have sufficient room to upgrade to a TIER 4 engine that will be required to achieve the emission requirements.
- In recent years, the P/V GOLDEN GATE maintenance periods and costs have been increasing due to the vessel’s age.

Captain Carr noted Captain McCloy and other members of the SFBP have completed a significant amount of work on the pilots’ needs, pilot boat designs, and the selection of a new high-speed pilot vessel design and specifications.

Captain McCloy clarified for President Connolly that the CARB TIER 4 engine requirements will apply to vessels with over 600 horse power. He replied to Commissioner Hoppes that after two years of research, SFBP is close to finalizing a vessel design, and that depending on the shipyard, it may take about 14 months to build the boat. Captain McCloy explained to Commissioner Nyborg that the TIER 4 engine is cleaner burning, but is a complex engine that will require additional maintenance and maintenance costs, which was a concern to Commissioner Nyborg. Captain McCloy also responded to a query from Commission Hoppes, and stated that pilot boats are usually financed over a ten-year term.

**MOTION:** Commissioner Nyborg moved to approve the recommendation from the Pilot Boat Advisory Committee to approve a request and supporting documentation from the San Francisco Bar Pilots and the San Francisco Bar Pilots’ Benevolent and Protective Association for a Necessity Determination for the purchase of a replacement vessel for the P/V GOLDEN GATE. Commissioner Connolly seconded the motion.

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

**ACTION:** The motion was approved.

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

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

SFBP Business Director Captain McIntyre reported that all navigation equipment has been ordered, the new navigation software has been installed, the SFBP trainers have received training on the new software and are in the process of training the rest of the pilots. She reported that \$95,000 of the total Board-approved Navigation Technology Surcharges remains to be billed as of the end of September 2020, and is expected to be billed by the third or fourth week of November.

Commissioner Carr reported that he completed the training on the new navigation technology software the previous day, and noted that the software will significantly improve his ability to navigate.

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

**Review and acceptance of the Condition and Valuation Surveys for the Pilot Vessels GOLDEN GATE, CALIFORNIA, DRAKE, and PITTSBURG. Possible Board action to accept the Condition and Valuation Surveys for the Pilot Vessels GOLDEN GATE, CALIFORNIA, DRAKE, and PITTSBURG, and making a finding that the vessels are safe and suitable for pilotage service.**

Executive Director Garfinkle reported that Board staff received a *Condition and Valuation Survey* for the P/V GOLDEN GATE that was included in agenda item 12. He stated the remainder of the pilot vessel surveys will be presented at a later Board meeting.

**MOTION:** Commissioner Nyborg moved to accept the Condition and Valuation Survey for the Pilot Vessel GOLDEN GATE. Commissioner Prada seconded the motion.

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

**ACTION:** The motion was approved.

Captain McCloy confirmed for Executive Director Garfinkle that all of the recommendations listed in the survey have been completed.

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**15. Trainee request for continuance of a Leave of Absence (Executive Director Garfinkle)**

**Report on Pilot Trainee Training Program trainee Captain Brett Nelson’s request for a continuance of the two-month leave of absence from the training program approved by the Board on August 28, 2020. Possible Board decision to grant Pilot Trainee Training Program Captain Brett Nelson a continuance of the two-month leave of absence from the training program approved by the Board on August 28, 2020. 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.**

Executive Director Garfinkle reported that Captain Nelson has indicated that he plans to resign from the Pilot Trainee Training Program and will submit a resignation letter in the near future. Executive Director Garfinkle responded to Commissioner Nyborg that since it is rare for trainees to leave the program, there is no formal exit survey.

President Connolly called for a short recess.

**RECESS:** 11:15 a.m.  
**END RECESS:** 11:25 a.m.

**16. Discussion of pilot revenue losses due to reduction in vessel traffic caused by the COVID-19 pandemic. Consideration of the role of the Board, if any, in responding to the situation. Possible Board decision on various alternative courses of action, including (1) creation of a committee of two or fewer Board members to facilitate negotiations between the pilots and stakeholders, possibly leading to presentation of a joint proposal by the pilots and stakeholders to the Legislature for a temporary rate increase; (2) Board initiation of an investigative hearing of pilotage rates limited to consideration of a temporary surcharge or other temporary rate increase and seeking presentation of evidence on that issue by persons directly affected by pilotage rates, possibly leading to a Board recommendation to the Legislature; (3) leaving to persons directly affected by pilotage rates the decision whether to seek, by petition, a pilotage rate hearing before the Board on issues of their choosing; and (4) other Board actions that may be suggested at the meeting.**

President Connolly noted that this agenda item was discussed over the past couple of Board meetings, he would like to see a resolution to the pilots’ fiscal issues, and suggested the creation of a committee or for two or fewer Board members to assist with the stakeholder negotiations.

Port Agent Long commented that he and Mr. Jacob have had several meetings to discuss the pilot’s fiscal issues, and although there have been multiple efforts, there still isn’t an acceptable resolution. He stated that discussions of rate adjustments need to happen out in the open with

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a public record. He said the existing process doesn't work, and the Board needs to be involved because it's a state program. He is in favor of a Board-initiated rate hearing.

Mr. Jacob noted that SFBP and PMSA share concerns about the existing rate-adjustment process, but they disagree on how best to arrive at solutions. He noted that PMSA is open to having a mediated discussion involving Board members. He reminded the Board that he submitted a letter to the Board objecting a self-initiating rate hearing, and encouraged all parties to negotiate to come up with a mutually-agreeable solution. He thanked the Board for their interest to participate in the negotiations.

Both Commissioner Hoppes and Prada stated that they are not in favor of a Board-initiated rate hearing. Commissioner Prada stated that it may be helpful having a third party mediator.

Commissioners Carr and Nyborg stated that they are in favor of a Board initiated rate hearing and suggested to keep it focused to COVID-related fiscal issues. Vice President Hayes-White and Ms. Dougherty both commented that any resolution to the pilots' fiscal issues will require legislature approval.

President Connolly suggested continuing this agenda item at the November Board meeting. Mr. Jacob stated that PMSA is open to having a preliminary discussion with Commissioners Prada and Carr if they are interested.

Assistant Director Cristia-Plant suggested that the Board consider pursuing a statutory amendment to change the definition of a catastrophic event to include a loss of pilot revenue and not just an increase in pilot costs.

President Connolly deferred agenda item 17 to the end of the meeting.

**18. Incident Review Committee report on the T/V POLAR DISCOVERY (Committee Chair Connolly)**

**A presentation of the Incident Review Committee report on the event involving the allision of 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. Board deliberation of the Incident Review Committee's recommendations to the Board and determination regarding the event involving the T/V POLAR DISCOVERY. 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 noted that this IRC report was extended under agenda item 10.



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

There were no comments from the public.

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

President Connolly requested that the November 2020 Board meeting agenda include a continuation of the discussion of agenda item 16. Pilot Boat Advisory Committee Chair Captain Carr requested that the November Board meeting agenda include an item for Board to approve a preliminary determination for a new pilot boat.

**RECESS:** 12:34 p.m.  
**END RECESS:** 12:38 p.m.  
**CLOSED SESSION BEGAN:** 12:38 p.m.  
**OPEN SESSION RESUMED:** 12:54 p.m.

**17. Consideration in closed session of formal written decision concerning the docking of the P/V STAR PRINCESS at San Francisco Pier 27 (Board Counsel Eagan)**

**At the September Board meeting, Vice President Hayes-White and Commissioners Carr, Hoppes, Nyborg, and Prada met in closed session to deliberate concerning 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. The Board’s decision was announced orally at the conclusion of the closed session. A draft written decision memorializing that decision has been prepared for the Board’s consideration. Under Government Code §11126(c)(3), the Board will go into closed session to consider the draft written decision.**

Board Counsel Eagan reported that Board approved the written decision of the IRC for this incident. Commissioner Carr added that the Board will require that Port Agent Long post the IRC’s report on its website, require Captain Favro to make a presentation to other pilots, and that Executive Director Garfinkle to send the Board’s written decision to the Port Agent.

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**20. Adjournment.**

President Connolly adjourned the meeting at 12:59 p.m.

Submitted by:



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**Allen Garfinkle**  
**Executive Director**