

<p>Meeting Date: May 27, 2021</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 17</p>
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Board Members Present

Joanne Hayes-White, President, Public Member
Jennifer Ferrera Schmid, Vice President, Public Member
Captain Robert Carr, Pilot Member
Captain Einar Nyborg, Pilot Member
Captain Oscar Prada, Tanker Company Industry Member
Stephanie Dougherty, Designee of the Secretary of the California State Transportation Agency (CalSTA)

Board Members Absent

Karen Tynan, Public Member
Vacant, Dry Cargo Industry Member

Board Staff Present

Allen Garfinkle, Executive Director
Dennis Eagan, Board Counsel
Brenda Pugh, Staff Services Manager I
Alethea Wong, Administrative Assistant II

Identified Public Present

Captain John Carlier, San Francisco Bar Pilots (SFBP) President and Port Agent; Captain Anne McIntyre, SFBP Business Director; Captains Eric Robinson and Zachary Kellerman, SFBP; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; Captain Nicholas Deisher, BOPC Pilot Trainee; and Rex Clack, Esq.

OPEN MEETING AGENDA

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

President Hayes-White 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 Hayes-White)

Board action to approve the minutes from the Board meeting held on April 22, 2021.

Board members were presented with the draft minutes from the April 22, 2021, meeting. Commissioner Carr and Captain McIntyre requested for minor edits to the minutes. There was no further discussion.

<p>Meeting Date: May 27, 2021</p>	<p align="center">Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p align="center">BOARD MEETING MINUTES</p>	<p align="center">Page 2 of 17</p>
--	---	---

MOTION: Vice President Schmid moved to approve the draft minutes of the meeting held on April 22, 2021, as amended. Commissioner Prada seconded the motion.

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

ACTION: The motion was approved.

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

Mr. Jacob announced that due to a schedule conflict he will leave the meeting early and wanted to make comments regarding agenda items 12 and 14. Mr. Jacob thanked Commissioner Carr, Board staff, and SFBP for a productive Ad Hoc Committee to Review the Pilotage Rate Setting Process meeting. He noted that the discussion with SFBP is going well. Mr. Jacob was grateful to SFBP for continuing to work with the industry while congestion issues at the Port of Oakland are ongoing.

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

President Hayes-White reported that Commissioner Tynan is travelling and is unable to attend this Board meeting. She also reported that Vice President Schmid may be leaving the meeting early.

President Hayes-White noted that there are no updates about returning to in-person meetings, but Executive Director Garfinkle will check for updates to Covid-19 protocols related to the Board meetings. She also noted that having hybrid meetings may be a challenge for Board staff.

Commissioner Nyborg requested that the Board consider rescheduling the June 2021 Board meeting due to a scheduling conflict with a U.S. Coast Guard Captain Change of Command Ceremony. He suggested postponing the June 2021 Board meeting until 2:00 p.m. Executive Director Garfinkle recommended that the meeting take place on a date other than the ceremony. SFBP Business Director Captain McIntyre commented that SFBP will not be available if the Board meeting were to be rescheduled to Friday, June 25, 2021.

Board members decided to move the June 2021 Board meeting from June 24, 2021, to June 23, 2021.

MOTION: Commissioner Nyborg moved that the scheduled Board meeting for June 24, 2021, be rescheduled to Wednesday, June 23, 2021. Commissioner Carr seconded the motion.

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

<p>Meeting Date: May 27, 2021</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 3 of 17</p>
--	---	----------------------------

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

5. Board Member Announcements and Activities (Board Members)

Commissioner Nyborg commented that he completed his physical within the last month and the process went smoothly at the University of California, San Francisco (UCSF).

Commissioner Carr reported that in a follow-up on pilot-ladder safety, he was onboard the NYK ROMINA and he discussed with the captain that the ship recently upgraded to the current IMO pilot transfer modification in August. He notes that vessels are trying to make improvements.

President Hayes-White reported that she received a text message from Commissioner Prada that he is having technical difficulties and will be rebooting his computer, but he is able to see and hear attendees and discussion, and he is in favor of the meeting date change to June 23, 2021.

6. Directors' Report (Executive Director Garfinkle)

A) Correspondence and activities since the Board meeting held on April 22, 2021.

Executive Director Garfinkle reported on the following:

- On April 22, 2021, Board staff received a copy of the PMSA *West Coast Trade Report* for April. It contained the usual parsing of the numbers, a Jock O'Connell commentary, and an editorial by PMSA President John McLaurin concerning the transfer of the Queen Mary to the Port of Long Beach.
- Also on April 22, 2021, Board staff received a copy of the of a letter from SFBP President Captain Carlier addressed to City of Oakland Planner Peterson Vollman urging the city to include the San Francisco Bay Harbor Safety Committee as an approving party for all maritime safety protocols.
- On April 23, 2021, Board staff received a letter from the National Maritime Center (NMC) stating that even though the CG-719 form (form used to document mariner medical assessments) currently shows an expiration date of March 31, 2021, they request that the maritime community continue using the current version until a new version is published. This form is currently in the review process.
- Also on April 23, 2021, Board staff completed a letter to Peterson Vollman, Oakland City Planner, with the Board's position of supporting having the San Francisco Bay Harbor Safety Committee be an approving party of all three aspects of protocol establishment – adoption, periodic review, and any future revision of the protocol.

<p>Meeting Date: May 27, 2021</p>	<p align="center">Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p align="center">BOARD MEETING MINUTES</p>	<p align="center">Page 4 of 17</p>
--	---	---

- Unfortunately, due to a staff error, this letter was not submitted prior to the City of Oakland’s *Waterfront Ballpark District at Howard Terminal Draft Environmental Impact Report* comment deadline. It was submitted to the Oakland City Planners after the comment period ended and was also provided to the Executive Director of the San Francisco Bay Harbor Safety Committee. He apologized to the Board for missing the deadline, and to Mike Jacob, who brought this item to the Board.
- On April 28, 2021, Board staff submitted our 2020 State Agency Waste Management Annual Report.
 - On May 4, 2021, Board staff received a letter from Governor Newsom recognizing California Public Service Recognition Week and urging all Californians to take time to thank our public servants.
 - On May 10, 2021, Board staff received a copy of a letter to the Chief of the U.S. Coast Guard Waterways Management Division from Julian Rose, Port Captain for Marathon Petroleum, expressing concerns about the reduction in depth of Bulls Head Channel to 32.5 feet and requesting emergency dredging of that channel. This represents a reduction of 2.3 feet from the previous depth of 34.8 feet, and 2.5 feet from the project depth of 35 feet. The letter cites economic hardship and a reduction of cargo carrying capacity to the Martinez and other up-river terminals.
 - Also, on May 10, 2021, the Board added a new trainee: James Pascucci. Capt. Pascucci signed a contract to train and was oriented by Board staff. The orientation continued at Pier 9 later that day.
 - On May 12, 2021, Board staff received a Claim for Damages from Hunter Pyle, of Hunter Pyle Law, attorneys for Captain David Burchard. The claim contends that Captain Burchard successfully completed the training program, and that the Board’s actions were a denial of procedural and substantive due process, and based on unlawful age discrimination. The claim seeks damages including loss of wages from previous employer while in the training program, compensation of expenses while in the training program, loss of projected earnings as a San Francisco Bar Pilot for 18 years, damage to reputation, and emotional distress.
 - On May 20, 2021, Board staff received a copy of an U.S. Coast Guard Policy Letter No. 01-21, dated April 7, 2021. The subject is Pilot Ladders, embarkation ladders, and pilot transfer arrangements. The letter provides guidance for approval of pilot ladders consistent with the most current International Organization for Standardization guidance. It also provides current guidance of embarking and disembarking of pilots.
 - On May 24, 2021, Board staff received a copy of the PMSA *West Coast Trade Report* for May. It contained the usual parsing of the numbers, with the Port of Los Angeles being the nation’s busiest port. There is a Jock O’Connell commentary, this time focusing on the Queen Mary and the proposal to build a waterfront stadium in Oakland.

<p>Meeting Date: May 27, 2021</p>	<p align="center">Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p align="center">BOARD MEETING MINUTES</p>	<p align="center">Page 5 of 17</p>
--	---	---

B) Report on pilot licensing matters since the Board meeting held on April 22, 2021.

Executive Director Garfinkle reported that since the April Board meeting, the Board renewed the licenses of Captains Wehr, Cvitanovic, Fawcett, Manes, D’Aloisio, and Larwood.

C) Report on Board surcharges.

Executive Director Garfinkle reported that the SFBP transferred by wire the surcharges collected in April 2021 in the amount of \$214,937.31, itemized as follows:

- Board Operations Surcharge: \$127,847.31
- Continuing Education Surcharge: \$ 26,800.00
- Pilot Trainee Surcharge: \$ 60,290.00

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

Executive Director Garfinkle reported that under agenda item 15, the Board will review a stipulated settlement and disciplinary order regarding the accusation against Captain Kirk in the POLAR DISCOVERY incident.

E) Report on legislative activities and contractual matters.

Staff Services Manager I Pugh reported on Assembly Bill 807, authored by Grayson. The bill was introduced on February 16, 2021, amended on March 22, 2021, and passed out the Appropriation Committee on May 20, 2021. AB 807 is currently pending a third reading and final vote in the Assembly. If the Bill is approved by the Assembly, the Bill will be sent to the Senate.

Staff Services Manager I Pugh reported the following on contractual matters:

- The manned-model contract will be ending in July 2022. The process for implementing a new contract will begin once the criteria for the request for proposal is determined. The Continuing Education Committee is scheduled to meet on 6/8/2021 to review the criteria.
- The new interagency agreement with the State Controller’s Office for future audits of pilotage rates and surcharges was executed. The new agreement, totaling \$163,930, covers 2020, 2021 and 2022 audits.
- A contract amendment to the existing contract with the San Francisco Bar Pilots to increase the number of trainees to 10 was executed, and is under review by the attorneys at the Department of General Services.

<p>Meeting Date: May 27, 2021</p>	<p align="center">Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p align="center">BOARD MEETING MINUTES</p>	<p align="center">Page 6 of 17</p>
--	---	---

- The contract amendment to the current contract with the California State University Maritime Academy for pilot continuing education was executed. The amendments include a change to the principal instructor and extension of the term by one year, with no increase in the contract amount. The additional contract year is necessary since there was no combination course training this fiscal year due to the pandemic. The entire contract budget will be shifted forward by one year.
- The new interagency agreement for continued administrative support with the California Highway Patrol was executed. The current interagency agreement with the California Highway Patrol expires on June 30, 2021. The new contract will begin on July 1, 2021, and ends on June 30, 2024
- Board staff is working with Caltrans for website support, and therefore an amendment to the Interagency Agreement is no longer required. Caltrans staff are planning to recreate the website onto their new platform, which does not require their subcontractor to migrate the website.
- A new interagency agreement with the Regents of the University of California for continued pilot and trainee medical assessments from physicians at the University of California, San Francisco campus is under review by UCSF staff. The current contract with UCSF expires June 30, 2021.

Commissioner Nyborg asked if the issues with the UCSF invoices have been resolved. Executive Director Garfinkle responded that Board staff is working with UCSF to better track services going forward and improve the record keeping.

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

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

Port Agent Carrier reported that the following pilots have been absent for medical reasons (AFMR):

- Captain Kasper – June 11, 2020
- Captain Kirk – December 2, 2020
- Captain McCloy – April 20, 2021
- Captain Pyne Mercier – April 25, 2021
- Captain Alden – April 30, 2021

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 scheduled meetings, canceling previously

<p>Meeting Date: May 27, 2021</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 7 of 17</p>
--	---	----------------------------

granted compensated time off requests, suspending SFBP internal working rules, and calling in off-watch pilots.

He reported that there are currently 53 licensed pilots, that there were 5 MRP exceptions in April, and the shortest rest period was 10.8 hours.

B) Monthly report on SFBP ship piloting business activity.

For the month of April 2021, Port Agent Carlier reported normal operations for all pilot vessels except for P/V DRAKE, which was scheduled for dry dock from March 29, 2021, to May 13, 2021; and P/V CALIFORNIA, which was offline from April 19, 2021, to April 21, 2021, due to a ground fault in the fire panel after it had taken spray through an open pilothouse window. He reported that P/V SAN FRANCISCO had a vessel survey completed on April 7, 2021; there were several minor deficiencies, all of which have been completed.

Port Agent Carlier reported that the billed vessel moves for April 2021 were as follows:

- Bar Crossings: 407 moves
- Bay Moves: 154 moves
- River Moves: 49 moves
- Total Moves: 610 moves
- Gross Registered Tons (GRT): 23.2 million

He also reported that when comparing 2021 year-to-date vessel move data with the same period in 2020, total moves were down 10.48% and GRT was down 18.71%.

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 discussion of this item.

Vice President Schmid wants updates on the SFBP Peer Review Program. She gave a brief description of the proactive program, that started in 2016, following the NTSB M-11-19 safety recommendations, with senior pilots observing their peers during various ship movements throughout the Bay.

<p>Meeting Date: May 27, 2021</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 8 of 17</p>
--	---	----------------------------

8. Pilot Evaluation Committee (Captain Robinson)

A) Report on the Pilot Evaluation Committee (PEC) meeting held on May 19, 2021.

PEC Committee Chair Captain Robinson reported on the following:

- The PEC met on May 19, 2021, and in attendance were Committee members Captains Aune, Ruff, Slack, Wehr, and Robinson.
- 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 nine current trainees included Captains Adams, Barnum, Deisher, Murney, Olmsted, Pascucci, Sappington, Snapp, and Weber. The range of time in the program for these trainees range from 1 month to 20 months.
- The U.S. Coast Guard (USCG) issued Captain Deisher First Class pilotage endorsements for unlimited tonnage on San Francisco Bay. He is in the evaluation stage of the Pilot Trainee Training Program, and is handling vessels as much as possible along with the occasional observation trip to watch a licensed pilot.
- Captain Adams is handling and waiting on the issuance of his full San Francisco Bay pilotage endorsement.
- Captains Murney and Weber have completed testing and are handling in all areas.
- Captains Barnum, Olmsted, Pascucci, Sappington, and Snapp are acquiring route trips and beginning to handle and partial handle vessels in areas where they meet the present requirements.
- 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 June 16, 2021, at 7:30 a.m. at the Board office.

B) Possible PEC recommendation to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program. Possible Board action to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program.

There was no recommendation.

C) 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.

<p>Meeting Date: May 27, 2021</p>	<p align="center">Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p align="center">BOARD MEETING MINUTES</p>	<p align="center">Page 9 of 17</p>
--	---	---

PEC Chair Captain Robinson reported that the PEC concluded its training of Captain Nicholas Deisher at its meeting on May 19, 2021, and determined that Captain Deisher successfully completed all elements of Section 214(c) and (h) of the Pilot Trainee Training Program requirements listed in the Board’s regulations. PEC Chair Captain Robinson provided the following data:

- Captain Deisher entered the Pilot Trainee Training Program on October 1, 2019.
- Since that time, Captain Deisher completed a total of 589 training jobs with the San Francisco Bar Pilots, of which 230 were as an observer and 330 were handled or partially handled in which Captain Deisher directed the navigation and control of the vessel.
- Captain Deisher completed 100 training jobs with PEC members, 30 of which were in the previous 90 days.
- As required by regulation, Captain Deisher maintained an average PEC evaluation score of 4.0 or greater in each of the last three months, resulting in a three-month average score of 4.32.
- The PEC determined that Captain Deisher has successfully completed the Pilot Trainee Training Program, and recommended that the Board issue Captain Deisher a Certificate of Completion from the program, effective May 27, 2021.

MOTION: Commissioner Nyborg moved that the Board award Captain Deisher a Pilot Trainee Training Program Certificate of Completion. Vice President Schmid seconded the motion.

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

ACTION: The motion was approved.

D) Possible recommendation from the Executive Director for the Board to issue a state pilot license to a trainee who holds a Certificate of Completion from the Pilot Trainee Training Program. Possible Board action to accept a recommendation from the Executive Director that a trainee holding a Certificate of Completion from the Pilot Trainee Training Program be licensed as a state-licensed pilot.

Executive Director Garfinkle reported that the Board received an application for licensing from Captain Nicholas Deisher. He stated that the Captain Deisher meets all the Board’s requirements for licensure. He recommended to the Board, that since there are fewer than 60 pilots, a license can be issued to Captain Deisher.

MOTION: Commissioner Carr moved that the Board issue a pilot license to Captain Deisher. Commissioner Nyborg seconded the motion.

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

Meeting Date: May 27, 2021	Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111 BOARD MEETING MINUTES	Page 10 of 17
---	--	----------------------

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

**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 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 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 June 23, 2021.

Executive Director Garfinkle that he will be presenting the IRC report for M/V CHAMPION CONCEPT under agenda item 16.

B) 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 EXPRESS report at the Board meeting to be held on June 23, 2021.

Executive Director Garfinkle reported that the incident report is not completed yet and will require an extension. There are no safety concerns due to the delayed report.

C) 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 a parted spring line 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 June 23, 2021.

Meeting Date: May 27, 2021	Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111 BOARD MEETING MINUTES	Page 11 of 17
---	--	----------------------

Executive Director Garfinkle reported that the incident report is not completed yet and expects to be available to present to the Board at the next Board meeting. He is requesting for an extension to present the incident report. There are no safety concerns due to the delayed report.

D) Status report on the M/V GLOBE PEGASUS allision with several pilings at Levin Terminal in Richmond, CA, on April 8, 2021.

Executive Director Garfinkle reported that this is within the 90-day statutory deadline and no Board action is necessary.

E) Initial report on the M/V VECCO making contact with the bottom, while downbound on the San Joaquin River in the vicinity of Light 36 on April 22, 2021.

On April 22, 2021, M/V VECCO made momentary contact with the bottom, while downbound on the San Joaquin River in the vicinity of Light 36. Following a sounding of the ship’s voids and tanks, it was determined that there was no damage. After confirming that the USCG had reviewed the event and classified it as a “bump and go,” the Committee has also determined this incident as a “bump and go” event as well. Executive Director Garfinkle noted that the river is a dynamic environment, and the bottom is changing constantly, so there may be unexpected shallow spots. The USCG documents detailing the criteria for a “bump and go” are available on the Board’s website, which state, in part, that an incident can be classified as such if there was no damage to the ship, the vessel is able to get off the bottom without assistance, and only there for a short duration. The Committee deems this incident as one where there was “clearly no pilot error” and discontinued the investigation.

Commissioner Nyborg agreed with Executive Director Garfinkle analysis that this incident was a bump and go.

MOTION: Commissioner Nyborg moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V HYUNDAI NEPTUNE and M/V JIANGMEN TRADER at the Board meeting to be held on June 23, 2021. Commissioner Prada seconded the motion.

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

ACTION: The motion was approved.

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

<p>Meeting Date: May 27, 2021</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 12 of 17</p>
--	---	-----------------------------

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.

Executive Director Garfinkle reported that the April 2021 Prevent/Response – San Francisco Harbor Safety Statistics report included a description of four loss of propulsion incidents. He also reported that a foreign container ship experienced a fire in the main engine while transiting inbound to Anchorage 9. In another event, the master onboard a foreign container ship reported that he was gravely ill and was unable to command his vessel. When the master disembarked at Anchorage 8A, he was taken to the hospital and tested positive for COVID-19. The rest of the crew was tested for COVID-19 and all were replaced by a new crew who had negative COVID-19 test results.

Commissioner Nyborg commented that it is helpful for the Board to stay aware especially with how frequent the mechanical issues occur.

12. Ad Hoc Committee to Review the Pilotage Rate Setting Process (Captain Carr)

Report on the Ad Hoc Committee to Review the Pilotage Rate Setting Process meeting held on May 18, 2021.

Committee Chair Carr reported that the Ad Hoc Committee to Review the Pilotage Rate Setting Process met on May 18, 2021. The Committee is still gathering information prior to making a recommendation to the Board, and has heard concerns and suggestions from SFBP and PMSA. There is currently a large amount of information about the rate setting process on the Board’s website. The Committee plans to meet again on June 8, 2021, and expects to have recommendations presented to the Board by October 2021. He reported that the Committee will continue to meet to resolve the rate setting process issues. He thanked Mr. Jacob for his participation in the Committee meetings.

13. Status report on the replacement of the P/V GOLDEN GATE, for which the Board approved a Preliminary Determination for the purchase of a replacement vessel and eventual recovery of costs to the pilots in an amount of \$8,820,679.00 on November 12, 2020, and discussion of future pilot vessel needs of Board-licensees. (SFBP Business Director Captain McIntyre)

SFBP Business Director Captain McIntyre reported that she has no additional items to report and noted that the project is going well and is still in the engineering stages. She added that SFBP have discussed with Mr. Jacob replacing SFBP’s pilot vessels and the California Air Resource Board’s regulations and timelines. SFBP will continue to work with industry stakeholders on the issues related to the California Air Resource Board’s regulations.

<p>Meeting Date: May 27, 2021</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 13 of 17</p>
--	---	-----------------------------

Commissioner Carr reported that the next Pilot Boat Advisory Committee meeting is scheduled for June 10, 2021, to discuss financing options to replace the fleet.

14. Discussion of pilot revenue losses due to reduction in vessel traffic caused by the COVID-19 pandemic. (President Hayes-White)

SFBP Business Director Captain McIntyre reported that vessel moves are still down by 20.3%, which is about \$3.4 million. The next Committee meeting is on June 8, 2021. SFBP is concerned that there may not be enough time to meet the Legislature’s timeline. Discussions have narrowed down the issues to costs and possible reimbursement ideas. She also reported that ships scheduled to come to San Francisco have been cancelled and she does not expect cruise ships to return for the remainder of the year. She reported that when comparing 2019 April year to date vessel move data with 2021 April year to date, bar crossings were down 26.3%, total vessel moves were down 20.3%, GRT was down 26.8%, and pilotage fees were down 23.3% (\$3.4 million).

Mr. Jacob agreed with SFBP Business Director Captain McIntyre and that he is hopeful that AB 807 will move forward. Currently, the queue is about 26 vessels at anchor and offshore. He thanked SFBP for their work.

Vice President Schmid left the meeting at 10:47 a.m.

15. Review and possibly adopt a Stipulated Settlement and Disciplinary Order regarding the Accusation Against Captain Roger Kirk relating to the POLAR DISCOVERY incident on November 24, 2019. The Board may go into closed session to deliberate concerning the Stipulated Agreement and Disciplinary Order under Government Code section 11126, subdivisions (c)(3) and (e)(1).

Executive Director Garfinkle reported that Ms. Wipfler met with Mr. Clack and Captain Kirk concerning a Stipulated Settlement and Disciplinary Order regarding the Accusation Against Captain Kirk relating to the POLAR DISCOVERY incident on November 24, 2019. The terms agreed upon were very close to the Board’s initial terms:

- There will be a one-year suspension of pilot license 2553.
- Manned-model training can be in the United States.
- The Bridge Resource Management course will be American Pilots’ Association (APA) approved.
- The Fatigue Management course will be required.

Executive Director Garfinkle noted that if the Board approves of the slight amendments to the terms, a motion is needed to include the start date of suspension and usually it is 30 days from the approval of the settlement. Mr. Clack was present, representing Captain Kirk.

<p>Meeting Date: May 27, 2021</p>	<p align="center">Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p align="center">BOARD MEETING MINUTES</p>	<p align="center">Page 14 of 17</p>
--	---	--

Executive Director Garfinkle recommended that the Board start the suspension on June 1, 2021, but this would leave a short time to serve Captain Kirk. Alternatively, Captain Kirk’s suspension could start on June 15, 2021.

Commissioner Carr thanked Executive Director Garfinkle for the negotiations and requests that the American manned-model facilities be able to recreate a simulation of the Richmond Long Wharf. Executive Director Garfinkle noted that this stipulation was not expressly included in the order of the Board, and if this is something that the Board is committed to, it will require a change to the settlement agreement. Commissioner Carr requests that no changes to the terms of the settlement be made, but thought that this is what was the intent when the order was agreed upon. Executive Director Garfinkle commented that he has not spoken to the manned-model facilities in Massachusetts or Louisiana about this specific simulation and is not aware if they can re-create this scenario.

Commissioner Nyborg noted that the Board did not specify which port to recreate when the order was decided, and he agreed with the negotiations. He suggested that the Board move forward instead of renegotiating. He also would like the suspension to start sooner rather than later, and Commissioner Prada agreed.

Mr. Clack thanked the Board for the discussion and that Captain Kirk would like to proceed with the suspension as soon as possible. Mr. Clack requests that the suspension start on June 1, 2021, and will waive formal service of the order to expedite the process.

Commissioner Carr requests to retract his objection and he understands the additional workload that will be needed if the Board decides to renegotiate. He requests that the suspension start as soon as possible, and that June 1, 2021, is acceptable.

MOTION: Commissioner Nyborg moved to adopt the Stipulated Settlement and Disciplinary Order regarding the Accusation Against Captain Kirk related to the POLAR DISCOVERY incident, and for the suspension to start on June 1, 2021. Commissioner Prada seconded the motion.

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

ACTION: The motion was approved.

16. Incident Review Committee report on the M/V CHAMPION CONCEPT (Executive Director Garfinkle/Vice President Schmid)

A presentation of the Incident Review Committee report on the event involving the M/V CHAMPION CONCEPT making unintended contact with the corner of the dock while shifting from Berth 8 to Berth 9 in Stockton, California, on April 28, 2020. Board

<p>Meeting Date: May 27, 2021</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 15 of 17</p>
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deliberation on the Incident Review Committee’s recommendations to the Board and determination regarding the event involving the M/V CHAMPION CONCEPT. The Board may go into closed session for deliberation on the incident report presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3) and (e)(1).

Executive Director Garfinkle presented the IRC report for the M/V CHAMPION CONCEPT. He summarized the facts of the incident as follows:

- On the morning of April 28, 2020, the M/T CHAMPION CONCEPT was scheduled to shift from Stockton Berth 8 (portside to), Stockton Berth 9 (starboard side to), piloted by the Board of Pilot Commissioner’s licensee Captain Sam D’Aloisio.
- Captain D’Aloisio boarded the ship at approximately 0024 hours for the shift to Berth 9. All navigation equipment was operational, and the tugs CLEO BRUSCO and BELINDA BRUSCO came alongside.
- Captain D’Aloisio commenced the shift and during the maneuver the ship made unintended contact with the knuckle at Berth 9, with both the vessel and the pier sustaining some minor damage.

Executive Director Garfinkle then discussed the public portions of the report, the evidence gathered by the IRC, and the IRC’s analysis of the incident, including whether the pilot was proceeding in a reasonable and cautious manner, using the skill and care an average pilot similarly situated would have exercised, and whether Captain D’Aloisio’s actions were reasonable and prudent and made using his best judgment. He presented the timeline, images, and an estimate of damages, which included damage to parts of the ship’s hull and Pier 9.

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 be shared with “all licensees of the Board” as a lesson learned, to raise awareness of having clear access to all areas necessary for the safe navigation of the vessel.

Commissioner Nyborg commented that the maneuvering in Stockton is much tighter and there are no tractor tugs in that area. Piloting there is difficult. He does not see a need for the Board to go into closed session and that he is ready to make a motion.

Commissioner Carr agrees with the IRC’s report and decision. He noted that certain doors are locked due to maritime security protocols, which may require the ship to be on lockdown. He thanked the IRC for not including recommendations on the locked door in the final

<p>Meeting Date: May 27, 2021</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 16 of 17</p>
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recommendation. The pilot can request for the door to be open, but that depends on the pilot's discretion.

Commissioner Prada thanked Executive Director Garfinkle for the thorough incident report and noted that the crew's work seemed sloppy. He wants to emphasize the importance of peer reviews to check for additional issues in the future.

MOTION: Commissioner Nyborg moved to accept the Incident Review Committee's recommendation to find no misconduct by Captain D'Aloisio and to close the investigation. Commissioner Carr seconded the motion.

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

ACTION: The motion was approved.

17. Incident Review Committee report on the M/V STRATEGIC ALLIANCE (Executive Director Garfinkle/Vice President Schmid)

A presentation of the Incident Review Committee report on the event involving the M/V JIANGMEN TRADER and the moored M/V STRATEGIC ALLIANCE causing the M/V STRATEGIC ALLIANCE to part a spring line at Berth #6 in Pittsburg on July 23, 2020. Board deliberation of the Incident Review Committee's recommendations to the Board and determination regarding the event involving the M/V STRATEGIC ALLIANCE and the M/V JIANGMEN TRADER. 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) and (e)(1).

President Hayes-White noted that this agenda item has been granted an extension and was addressed under agenda item 10C.

18. Public comment on matters not on the agenda. (President Hayes-White)

There were no comments from the public.

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

President Hayes-White reminded everyone that the next Board meeting has been scheduled for June 23, 2021, and that Board staff will continue to check on the updates about having in-person meetings.

Commissioner Carr requested that Board staff include the Condition and Valuation Survey

Meeting Date: May 27, 2021	Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111 BOARD MEETING MINUTES	Page 17 of 17
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for P/V SAN FRANCISCO at the upcoming Pilot Boat Advisory Committee meeting.

20. Adjournment.

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

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved, and the meeting was adjourned at 11:24 a.m.

Submitted by:



Allen Garfinkle
Executive Director