

<p>Meeting Date: September 23, 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 20</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; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; John Schneider, Marathon Petroleum; Captains Dylan Epperson and Eric Robinson, SFBP; Eric Osen, Chevron; Captain James Murney, BOPC Pilot Trainee; and Kristen Murney.

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 August 26, 2021.

Board members were presented with the draft meeting minutes from August 26, 2021. Commissioner Nyborg requested for minor edits. There was no further discussion.

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MOTION: Commissioner Nyborg moved to approve the draft minutes of the meeting held on August 26, 2021, as amended. Commissioner Carr seconded the motion.

VOTE: YES: Hayes-White, Schmid, Carr, 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.

Mr. Jacob reported that PMSA and other stakeholders submitted a letter regarding the Howard terminal at the Port of Oakland, which will affect safe navigation, and he will forward a copy of the letter to Board staff. Commissioner Nyborg thanked him for his continued involvement in the Howard Terminal project.

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

There were no announcements.

5. Board Member Announcements and Activities (Board Members)

Commissioner Nyborg reported that he attended manned model training at Artelia recently and wanted to report on his experience when traveling to France during the middle of a pandemic.

- On September 10, 2021, he and several other pilots departed from the San Francisco International Airport. Some of the pilots had a layover in England, and some had non-stop flights to France. Captains Deisher, Rogers, Stevens, Merritt, Pyne Mercier, Benedict, and Adams also went to the manned model training.
- The EU Vaccine Passport is available and is becoming more common to use. Europe expects Americans to have the EU Vaccine Passport in order to travel to Europe.
- He reported that he had applied for the EU Vaccine Passport but did not receive it prior to his departure time. The European Health Experts accepted his QR code of his vaccination status, and it was required widely such as at restaurants prior to letting customers enter, and prior to boarding the planes.
- Prior to departing from France, the group had to have a polymerase chain reaction (PCR) test conducted.
- He thanked SFBP Business Director Captain McIntyre for coordinating the trip to France. The attendees had to be more active with preparing for the trip, but he finds it helpful that the attendees manage their own trip arrangements. He expects the trip coordination duties to be delegated to another SFBP staff member in the future.

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- The manned model training contract will expire in June 2022, and there are 2 more scheduled manned model trainings during 2022.
- He complimented Artelia on their efforts and outstanding work in providing manned model training to the pilots, including changes that are relevant in today's piloting work.
- He noted that some of the changes Artelia accommodated were changes with the escort tugs. Artelia now have six tugboat models in operation.
- Since pilots are encountering vessels that are 1300 feet in length, the pilots recently suggested to Artelia to include a model to replicate a 1200-foot vessel, which is comparable, and Artelia was able to create the desired model.
- He shared several photos from France, one of which was of a simulation of the Avon Turning Basin using an anchor and tugboat. He noted that this is a difficult maneuver with current, and sometimes pilots have to complete the maneuver without the assistance from a tugboat. He added that he and Captain Merritt paired up and each ran the exercise 6 times, due to how difficult the turn was.
- The Spirit of Port Revel model is new, simulates a 1200-foot vessel, and has various modes, one of which simulates a vessel loaded to 48 feet. When ballasted with water, the vessel's speed is reduced in a very realistic fashion. He noted that the 23,000 TEU vessels are very slow to respond. He reported that SFBP had made the request to Artelia to build the 1200-foot model five years ago. The model replicates the new challenges in the Bay Area. The model cost \$1.3 million USD to build. A new garage was also needed to store the 52-foot model. Although the model looks like a toy, the equipment is realistic and requires full concentration to maneuver it.
- He reported that the last image shared consisted of the attendees, French instructors, and Frédérique, the training program coordinator at Artelia. During breaks, the group discuss and exchange information on topics about pilotage, since other pilot groups also train at Artelia, which has a positive impact to those who attend the training.
- He reported that CMA CGM, a major French shipping company, has senior mariners that are retiring sooner, due to having to work with larger vessels, allowing the mates and junior officers below to promote to captain and mate, but they need training on the ships. They are sending them to Artelia for training, which will compete with SFBP for training opportunities. Since travel is permitted now, more people from other countries will be permitted to attend the trainings at Artelia, and he recommends that the next manned model trainings be reserved well in advance.
- He presented images of the GILDA, which represents a tanker in the photos, and a map of the Avon terminal. This represented how Artelia set up the simulation of Avon terminal.
- He presented the chart for Pier 27 which simulates large passenger ships coming to the San Francisco waterfront.
- He presented images of NORMANDIE, which is a container ship model but can be adjusted to behave more like a passenger ship. There was also a map that overlays the route simulation of Pier 27, and shows the current at the dock, requiring a righthand turn,

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which is challenging to pilots to maneuver. Having a team of two per model, each pilot can complete 6 or 7 rotations within an hour. He noted that 12 seconds at Artelia is supposed to be 1 minute in real time.

- He presented images of NORMANDIE docking stern first, portside docking, and a later one of starboard side docking. This exercise requires pilots to be knowledgeable in the use of pods to dock safely.
- He presented different modes to steer astern a ship, which cannot be replaced by computer training.
- He noted that there are more images of various models that Artelia built to simulate different types of vessels the pilots encounter. He finds that the exercises with the passenger vessels will be valuable to the pilots since they have not encountered one in over a year due to the pandemic, and will be helpful when cruise ships are expected to come to the Bay area in the near future.
- He thanked the Board and industry for their support with the training so that the pilots can remain current with today's piloting work.

Commissioner Nyborg responded to President Hayes-White's questions that he departed on September 10, 2021, and training was from 8 a.m. to 5 p.m. on Monday to Friday. The group arrived in California on Saturday, his name was on the board on Sunday morning, and he returned to work some time during the day on Monday.

President Hayes-White was curious about the impact of having 8 people off the board, and how it affects the workload. Commissioner Nyborg noted that having so many people off the board does affect the workload and he noticed there were two instances when the Port Agent needed volunteers to work. Port Agent Carlier reported that to minimize the effects to the workload, four people are sent from the current work group, and four people are sent from the off-work group. Port Agent Carlier said that sometimes there are instances of having to reach out to pilots to volunteer.

Commissioner Carr commented that in the Continuing Education Committee meeting, the Committee decided to include a quartering swell evaluation point, after reviewing the manned model provider's minimum criteria requirement. He noted that Artelia has a large body of water, and had put in the effort and expense to build a 56 feet long model, and provide a generator to create the appropriate swell. He is not sure that other manned model providers will be as accommodating with SFBP's requests if it were an open bid to obtain a contract with a manned model provider; therefore a sole source contract is preferred. Commissioner Nyborg agrees and prefers a sole source contact as well. Commissioner Nyborg responded to Commissioner Prada that Pilot Trainee Captain Adams attended the manned model training in September 2021. PEC Chair Captain Robinson confirmed that Captain Adams attended the manned model training based on Captain Adams being the most senior trainee in the training program. Captain Murney reported that he has not attended the manned model training yet and is looking forward to the training.

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Executive Director Garfinkle added that Board staff prioritized sending pilots who have not been to the manned model training yet. The group also included a trainee and included two senior pilots who have been to Artelia multiple times to help provide context to the newer pilots.

Commissioner Nyborg stated that he was able to practice more with azipods in this past manned model training, while the licensee he was paired with, Captain Merritt, had more experience working with azipods when he was a tractor tug captain, prior to becoming a pilot. He reminded the Board that the manned model training is not a repetitive training and contains updated, advanced information, with different topics emphasized to attendees. He recalled that his previous manned model training emphasized escort tugs.

6. Directors' Report (Executive Director Garfinkle)

A) Correspondence and activities since the Board meeting held on August 26, 2021.

Executive Director Garfinkle reported on the following:

- On August 24, 2021, he received an email concerning the recent requests from the Oakland Regional Exam Centers (REC) to have trainees validate 540 days of unlimited sea time (while holding a 1600-ton license) to get the unlimited first class pilotage endorsement. This has happened to, and delayed the progress of, another trainee in the Pilot Trainee Training Program recently.
- On August 31 and September 14, 2021, he attended meetings of the Ad Hoc Committee to Review the Pilotage Rate Setting Process.
- On September 2, 2021, he served an amended subpoena on the manager of Everport Terminals in the Port of Oakland.
- Also, on September 2, 2021, he provided the California Department of Human Resources with the draft express terms of the pilot trainee regulation package for comment.
- On September 12, 2021, he received an email from Commissioner Tynan, suggesting a ship master and out-of-state pilot evaluator to assist the evaluators with the simulation exam for the 2022 Pilot Trainee Training Program Selection Examination.
- On September 14, 2021, he received a response to the subpoena served on the manager of Everport Terminals in the Port of Oakland.
- Also, on September 14, 2021, he contacted Captain Bostick, the next candidate from the 2019 Pilot Trainee Training Program Selection Examination, to invite him to train in the Pilot Trainee Training Program.
- On September 15, 2021, he attended a meeting of the Pilot Evaluation Committee.
- On September 17, 2021, he attended a meeting of the Finance Committee.

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- Also on September 17, 2021, he received an email response from candidate Scott, from the 2019 Pilot Trainee Training Program Selection Examination, declining the offer to train in the Pilot Trainee Training Program, and requesting that his name be moved to the bottom of the list. This ended a two-month exchange regarding the candidate's start day, commencing with an offer to train on July 16, 2021, an acceptance of the offer on August 9, 2021, and Board receipt of a validation of sea service recency on August 17, 2021.
- Also, on September 17, 2021, he contacted Captain Burns, the next candidate on the list from the 2019 Pilot Trainee Training Program Selection Examination. The candidate responded immediately and was interested in beginning training.
- On September 19, 2021, he received a response from the candidate, Captain Bostick, who Executive Director Garfinkle had reached out to on September 14, 2021. Captain Bostick is training in another jurisdiction, but would like to keep his options open, and has not yet responded to Executive Director Garfinkle's most recent correspondence asking whether Captain Bostick wants to be moved to the bottom of the list or not.
- On September 20, 2021, he had a meeting with Chief King of the Business Services section of CHP, to discuss what administrative support CHP can offer to offset Board staff's workload due to staffing shortage.
- Also, on September 20, 2021, he made an official offer to candidate Captain Bostick, who was training in another jurisdiction. On September 21, 2021, Captain Bostick requested to be moved to the bottom of the list.
- Also, on September 20, 2021, he validated the recency of sea service of candidate Captain Burns and made him an official offer to join the Pilot Trainee Training Program. Captain Burns accepted the offer.
- On September 21, 2021, he invited candidate Captain Bunch to join the Pilot Trainee Training Program. She promptly accepted and is in the process of gathering her evidence of recency and securing an appointment at the University of California of San Francisco (UCSF).

B) Report on pilot licensing matters since the Board meeting held on August 26, 2021.

Executive Director Garfinkle reported that since the August Board meeting, the Board renewed the licenses of Captains Merritt, LeSieur, and Alfors.

C) Report on Board surcharges.

Executive Director Garfinkle reported that the SFBP wired to the Board the surcharges collected in August 2021 in the amount of \$222,464.03, itemized as follows:

- Board Operations Surcharge: \$126,949.03

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- Continuing Education Surcharge: \$ 27,910.00
- Pilot Trainee Surcharge: \$ 67,605.00

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 there are no outstanding items to report.

E) Report on legislative activities and contractual matters.

Staff Services Manager I Pugh reported that on September 16, 2021, Governor Newsom signed Assembly Bill 807, authored by Grayson.

Staff Services Manager I Pugh reported that Board staff have written and submitted the amendments to the Trainee Training Program regulations to the Secretary's office for review and approval. The regulations are being amended to change trainee selection criteria in an effort to diversify the candidate pool. Upon approval, the regulations will be submitted to the Office of Administrative Law (OAL). If the Board is able to get the Secretary's approval by October 5, 2021, OAL will publish the notice on October 15, 2021, making November 29, 2021, the end of the 45-day public comment period.

Staff Services Manager I Pugh reported the following contractual matters:

- Manned model contract: A non-competitive bid contract justification is in development for a sole source contract with the current vendor.
- The amendment to the current San Francisco Bar Pilots contract requires justification which was sent to the Secretary's office for review and approval.
- 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 still under review by UCSF staff.

Executive Director Garfinkle confirmed for Captain Robinson that a candidate at the top of the list had also requested to be moved to the bottom of the list. He also confirmed for President Hayes-White and Commissioner Nyborg that there is no deadline for UCSF to respond and return the new contract. The contract expired on June 30, 2021, but the new contract can be backdated due to UCSF being a state entity. President Hayes-White requested that Board staff provide an update on the outstanding UCSF contract since it has been three months since the previous contract expired, and the new contract has not been signed yet. SSM I Pugh responded that she has been in contact with UCSF about the status on the new contract once or twice each month, and that UCSF contract staff is waiting on their subject matter experts and legal team to finish reviewing the contract. SSM I Pugh also

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reported that the doctor reviewing the contract has been behind due to dealing with COVID-19-related issues.

Executive Director Garfinkle responded to Commissioner Carr that the draft of the retirement survey staff report was completed and should be available at the October Board meeting.

Vice President Schmid expressed disappointment that the Board lost 3 pilot trainee candidates and requested an update on the timeline when a trainee candidate responds and starts the training program.

Executive Director Garfinkle clarified the timeline:

- Board staff extends the official offer to the candidate, and the candidate has five business days to accept.
- Once accepted, the candidate provides evidence of their sea service, which may take some time to compile due to obtaining the sea service letters from their employers.
- At the same time, the candidate contacts UCSF to schedule a medical appointment. One of the current candidates needs to fly in from out-of-state for the medical assessment. Sometimes it may take up to a month for a candidate to get a scheduled appointment.
- Once Board staff receives the FFD from UCSF, Board staff can start the trainee contract process and have the candidate receive orientation.

Executive Director Garfinkle clarified that part of the delay is the candidate securing a medical appointment and for UCSF to provide the results of the medical assessment to Board staff, and both can each take up to several weeks. He reported that it's unusual for him to spend two months communicating with a trainee candidate only to have the candidate later announce that he or she decided that they were not interested in the joining the pilot trainee training program.

Mr. Jacob thanked everyone for their efforts and collaboration with AB 807.

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

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

Port Agent Carlier reported that the following pilots were absent for medical reasons (AFMR):

- Captain Kasper – June 11, 2020
- Captain McCloy – April 20, 2021
- Captain Alden – April 30, 2021

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Port Agent Carlier reported that the SFBP continually monitors the dispatch list for possible 12-hour minimum rest period (MRP) exceptions. For any potential exception that is likely to result in a rest period of less than 10 hours, SFBP will ensure that mitigating measures are enacted. 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 53 licensed pilots. There were 11 MRP exceptions in August, and the shortest rest period was 10 hours.

B) Monthly report on SFBP ship piloting business activity.

For the month of August 2021, Port Agent Carlier reported normal operations for P/V CALIFORNIA, P/V PITTSBURG, P/V DRAKE, and P/V GOLDEN GATE. P/V SAN FRANCISCO was not in service due to topside paint and generator rebuilds.

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

- Bar Crossings: 401 moves
- Bay Moves: 114 moves
- River Moves: 66 moves
- Total Moves: 581 moves
- Gross Registered Tons (GRT): 19.4 million

He also reported that when comparing 2021 year-to-date vessel move data with the same period in 2020, total moves were down 2.7% and GRT was down 18.5%.

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 discussion of this item.

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He thanked Mr. Jacob and the industry for assisting with AB 807, which allowed for two surcharges to take effect, and will help SFBP pay for basic expenses such as the new dispatch system.

Port Agent Carlier reported that SFBP recently received their first 1200-foot vessel in a long time. He reported hearing that some of the younger pilots were considering accepting jobs as tugboat captains since the work as a pilot has decreased and doesn't seem to be increasing.

Commissioner Nyborg was concerned that when he's near the Port of Oakland, he'd see the cranes up, indicating the cranes aren't working, but there are around 25 ships waiting to get to berth. He also reported that some of the other pilots are considering work elsewhere. He wanted the Board to be aware that the younger pilots are concerned with the decrease in work, though the more senior pilots are more established and aren't as concerned.

Executive Director Garfinkle commented that one criterion for evaluating pilotage rate adjustments is whether rates are sufficient to attract and hold trainees and pilots.

8. Pilot Evaluation Committee (Captain Robinson)

Committee Chair Captain Robinson is concerned that we are losing candidates to the training program to other pilot organizations. He noted that during the exam, a candidate declined to continue with the simulation exam in 2019, due to accepting a job offer in Texas.

A) Report on the Pilot Evaluation Committee (PEC) meeting held on September 15, 2021.

PEC Committee Chair Captain Robinson reported on the following:

- The PEC met on September 15, 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.
- There are currently eight trainees: Captains Adams, Barnum, Murney, Olmsted, Pascucci, Sappington, Snapp, and Weber. The trainees' range of time in the program is 5 months to 24 months.
- Captains Murney, Adams, and Weber received their First-Class pilotage endorsements for unlimited tonnage on San Francisco Bay by the U.S. Coast Guard. Captains Murney and Weber are in the evaluation stage of the Pilot Trainee Training

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Program, and are handling vessels as much as possible along with the occasional observation trip to watch a licensed pilot.

- 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 October 13, 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.

PEC Chair Captain Robinson reported that the PEC concluded its training of Captain James Murney at its meeting on September 15, 2021, and determined that Captain Murney 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 Murney entered the Pilot Trainee Training Program on May 1, 2020.
- Since that time, Captain Murney completed a total of 546 training jobs with the San Francisco Bar Pilots, of which 124 were as an observer and 422 were handled or partially handled in which Captain Murney directed the navigation and control of the vessel.
- Captain Murney completed 101 training jobs with PEC members, 30 of which were in the previous 90 days.
- As required by regulation, Captain Murney 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 4.26.
- The PEC determined that Captain Murney has successfully completed the Pilot Trainee Training Program, and recommended that the Board issue Captain Murney a Certificate of Completion from the program, effective September 23, 2021.

Executive Director Garfinkle confirmed for the Board that Captain Murney has completed all of the Pilot Trainee Training Program requirements.

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MOTION: Commissioner Prada moved that the Board award Captain James Murney a Pilot Trainee Training Program Certificate of Completion.

Commissioner Carr seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

Commissioner Nyborg commented that he was able to witness Captain Murney's improvement over the course of training and assures the Board that Captain Murney will be a good pilot.

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 Murney. He stated that Captain Murney met all of 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 Murney.

MOTION: Commissioner Prada moved that the Board issue a pilot license to Captain James Murney. Vice President Schmid seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

President Hayes-White administered the oath of office to Captain Murney.

Captain Murney thanked the Board, pilots, and SFBP staff for their support.

**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.

**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 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 October 28, 2021.**

Executive Director Garfinkle reported that the Incident Review Committee (IRC) has submitted an amended subpoena to the Everport Terminal, and the IRC has received new evidence on September 14, 2021. The IRC is still investigating the new evidence which consist of a video. The Incident Review Committee requests an extension to present the report. There is no danger to the public safety due to the delay in presenting the report.

MOTION: Commission Carr moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V THALASSA AVRA and M/V GLOBE PEGASUS at the Board meeting to be held on October 28, 2021. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

- B) **Status report on the M/V GLOBE PEGASUS allision with several pilings at Levin Terminal in Richmond, CA, on April 8, 2021. Possible Board action to grant the Incident Review Committee an extension to present the M/V GLOBE PEGASUS report at the Board meeting to be held on October 28, 2021.**

Executive Director Garfinkle reported that the investigation is still ongoing. The Incident Review Committee requests an extension to present the report, and there is no danger to the public safety due to the delay in the presenting the report.

- C) **Initial report of possible grounding the M/V JULIA L following anchoring above the Union Pacific Railroad Bridge when the bridge failed to open on the evening of September 9, 2021.**

Executive Director Garfinkle reported that on September 9, 2021, M/V JULIA L was anchored east of the Union Pacific Railroad (UPRR) Bridge when the bridge failed to open. During the anchoring, the pilot reported that the ship made contact with the side of the Bull's Head Channel. The ship was able to summon two tugs to aid in turning back upriver and proceeded under its own power to Pittsburg to await the resolution of the

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UPRR Bridge opening issues. The ship eventually passed under the bridge with no incidents. No damage to the ship or adjacent structures. The Incident Review Committee, after the initial investigation, determined that there was clearly no pilot error, and discontinued the investigation.

D) Initial report of possible grounding of the T/S CHALLENGE while upbound in the Sacramento River Deep Water Ship Channel on the evening of September 12, 2021.

Executive Director Garfinkle reported that on September 12, 2021, T/S CHALLENGE made momentary contact with the bottom while upbound in the Sacramento River Deep Water Ship Channel. During the transit, the vessel took a sheer from the starboard bank and began turning to port. After some oscillation, the pilot lowered the port anchor to two shackles to steady the bow. After dredging the anchor for a short while, the speed was reduced, the anchor brought home and they resumed normal transit to Sacramento. The ship never stopped and needed no assistance to complete its passage. There was no damage to the ship or structures. The Incident Review Committee (IRC) commenced an investigation and determined that there was no damage and that the momentary touching of the bottom comports with the USCG definition of a “bump and go” grounding. The IRC determined that there was clearly no pilot error and discontinued the investigation.

Commissioner Nyborg requested that Board staff disclose the pilot’s name since the incident was due to a difficult emergency maneuver, which was carried out well. He also suggested that the IRC leave a note in the pilot’s records, documenting his good work. He commented that although the pilots receive the training at Artelia, the maneuver is difficult to train for. Executive Director Garfinkle responded that it was Captain Hirschfeld.

Commissioner Carr wanted to ensure that the incident with M/V JULIA L be mentioned at the next Harbor Safety Committee meeting, since the UPRR Bridge did not lift, and the incident was not an issue with the vessel.

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.

Executive Director Garfinkle reported that the August 2021 Prevent/Response – San Francisco Harbor Safety Statistics report included a description of three loss of propulsion incidents. Two U.S. flag ships and one foreign flag ship experienced equipment failure. One of the U.S. flag ship incidents is pending, while the other two cases closed.

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12. Ad Hoc Committee on Pilot Diversity Meeting (Committee Chair Schmid)

Report on the progress to implement changes to the Trainee Training Selection Exam minimum qualifications and exam format.

Vice President Schmid thanked the Board and Board Counsel Eagan for their assistance. She presented the *Initial Statement of Reasons* to the trainee regulations, which explains in detail the purpose and scope of the recommended changes, which were approved at the August 2021 Board meeting.

Executive Director Garfinkle noted that there is no Board action required on either document due to them not being listed on the agenda, and they are for information purposes only.

Vice President Schmid also reported that the Committee has not reconvened, and therefore the Committee’s mission statement is also not available yet.

13. Ad Hoc Committee to Review the Pilotage Rate Setting Process meeting (Committee Chair Captain Carr)

Report on the Ad Hoc Committee to Review the Rate Setting Process meetings held on August 31 and September 14, 2021.

Committee Chair Captain Carr reported that the Ad Hoc Committee to Review the Pilotage Rate Setting Process met on August 31, 2021, and September 14, 2021.

Prior to the August Board meeting the Committee had completed its review of processes in other western states, and work has begun on structuring the rate setting process to address three primary weaknesses the Committee has identified:

- The process is not responsive. This was identified as an issue when the pandemic began, and the Board was frustrated in its ability to respond.
- The process has flaws in evaluating evidence. PMSA has expressed a lack of confidence in the integrity and objectivity of the process as it stands.
- The process through the legislature is lengthy because it follows the legislative calendar. Although the rate hearing at the board results in recommendations, it still falls on stakeholders to find a legislator to sponsor the rate bill based on these recommendations. There is opportunity for political influence to sidetrack the bill further – delaying action on the recommendation.

On August 31, 2021, the Committee began to structure the process and envisioned it starting with a stakeholder’s Notice of Intent to File. The Committee supports the inclusion of an ALJ in the process at the Board, and the Committee discussed at great length when that ALJ becomes involved. The Committee discussed different avenues the process may take once that notice is given, including stipulated rate adjustments and contested hearings. An ALJ is utilized in either case. The Committee achieved progress in detailing a process which

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utilizes pre-hearing conferences effectively, and when and how an ALJ is used in the process. The Committee ended the meeting, not having reached a consensus on the role of the ALJ. The Committee had not reached an agreement on whether the ALJ makes an informed recommendation to the Board and the Board making the final decision, or if the ALJ is making the determination with no input by the Board in the decision. The Committee determined it was best to take a break and reconvene on another date after reviewing the processes in the states the Committee evaluated.

The Committee met again on September 14, 2021, and started right in on discussing the role of the ALJ. The Committee appeared to agree that the ALJ makes a recommendation based on the findings of facts and conclusions of law to the Board for the final determination. The Committee next started to address how the process will take form without the Legislature. The Committee discussed having the CalSTA Secretary making the final approval of the Board's decision. The Committee sees merit in this avenue and is optimistic this is a viable path to direct the Committee's recommendation. Further discussion is needed on how this can be presented and what the Committee would be asking the CalSTA Secretary to do.

He is concerned with the Committee's timeline of presenting a recommendation to the Board at the October 2021 Board meeting, but the Committee plans to meet again on October 7, 2021, at 11:30 a.m.

14. Finance Committee meeting (Committee Chair Captain Nyborg)

A) Report on the Finance Committee meeting held on September 17, 2021.

Committee Chair Captain Nyborg reported that the Finance Committee met on September 17, 2021, reviewed the Board's financial statements for the last fiscal year, and reviewed both the itemized budget for fiscal year 2021-22 and the financial information on surcharges set by the Board.

Committee Chair Captain Nyborg reported that the Finance Committee discussed mostly AB 807 and deferred to SFBP Business Director Captain McIntyre for a discussion of the bill's surcharge provisions.

SFBP Business Director Captain McIntyre reported that the Finance Committee met on September 17, 2021, to address implementing surcharges. One of the surcharges is to address cost recovery and maintenance for the new pilot vessel in the amount of \$1.4 million, which allows SFBP to start collecting now through January 1, 2024. The other surcharge is the recovery of cost for the pilot dispatch system, not to exceed \$270,000, which SFBP will start collecting now through January 1, 2023. SFBP submitted a letter to the Finance Committee to request to recover the funds, and to implement the surcharges as soon as possible, beginning on October 1, 2021. She reported that SFBP

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submitted relevant documentation to the Committee, which is available to the Board on the BOPC's website. She reported that the initial cost recovery for the pilot vessel is \$551,382. The Committee discussed the best process to document the ongoing costs of the maintenance and repairs. She noted that there are many receipts and tracking each one will be a challenge, especially when there are receipts of small amount of charges. The Committee agreed that SFBP will submit receipts that are over \$5,000. Port Agent Carlier also signed a letter of attestation that the other expenses will be submitted in detail through a spreadsheet, to be made available for audits.

After reviewing the items, the Finance Committee approved recommending to the Board that effective October 1, 2021, a surcharge of \$90/move for the initial cost recovery of the pilot vessel maintenance and repairs. The Finance Committee also approved recommending to the Board that a surcharge of \$35/move be implemented effective October 1, 2021, for the cost recovery of the pilot dispatch system.

Executive Director Garfinkle clarified that the Committee met to discuss the surcharges from AB 807 and that the Committee had four motions, 2 for each surcharge. The Committee did not recommend changes to the Board Operations, Pilot Continuing Education, or Trainee Training surcharges, but they were listed in the agenda if the Committee decided to discuss them.

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

- 1) To adjust or not adjust the Board Operations Surcharge rate (currently at 5% of all pilotage fees), and the revenues, expenditures and reserve balance. Possible Board action to adjust the Board Operations Surcharge rate.**

No action was taken on this item.

- 2) To adjust or not adjust the Pilot Continuing Education Surcharge rate (currently at \$50 per move). Possible Board action to adjust the Pilot Continuing Education Surcharge rate.**

No action was taken on this item.

- 3) To adjust or not adjust the Pilot Trainee Training Surcharge rate (currently \$15/trainee/move). Possible Board action to adjust the Pilot Trainee Training Surcharge rate.**

No action was taken on this item.

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- C) **The establishment and implementation of a pilot dispatch program surcharge to take effect no sooner than October 1, 2021. Possible Board action to establish and implement a pilot dispatch program surcharge no sooner than October 1, 2021.**

There was no action taken on this item.

- D) **The establishment and implementation of a pilot boat maintenance surcharge to take effect no sooner than October 1, 2021. Possible Board action to establish and implement a pilot boat maintenance surcharge no sooner than October 1, 2021.**

There was no action taken on this item.

Dispatch Program Surcharge:

- The Committee recommends that the Board acknowledge that the Committee has received the San Francisco Bar Pilots' request for recovery, that the Finance Committee and Board staff have reviewed the documentations for recovery, and that the recovery of \$273,140 is consistent with the dispatch system surcharge.
- The Committee recommends that the Board initiate the Pilot Dispatch Program Surcharge rate at \$35/move, effective October 1, 2021.

Pilot Boat Maintenance Surcharge:

- The Committee recommends that the Board acknowledge that the Committee has received the San Francisco Bar Pilots' request for recovery, that the Finance Committee and Board staff have reviewed the documentation for recovery, and that the recovery of \$551,382 is consistent with the pilot boat maintenance surcharge.
- The Committee recommends that the Board initiate the Pilot Boat Maintenance Surcharge rate at \$90/move, effective October 1, 2021.

Board Counsel Eagan suggested a Board motion to accept or deny the four motion is appropriate since there was no recommendation for the Board Operations, Pilot Continuing Education, or Trainee Training surcharges. Executive Director Garfinkle suggested that the Board make a motion for the dispatch system, and a second motion for the pilot boat maintenance. Mr. Jacob thanked SFBP Business Director Captain McIntyre and Port Agent Carlier for their efforts.

MOTION: Commission Nyborg moved to accept acknowledgement that the Finance Committee received the San Francisco Bar Pilots' request for recovery, that the Finance Committee and Board staff have reviewed the documentation for recovery, that the recovery of \$273,140 is consistent

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with the dispatch system surcharge, and that the Board initiate the Pilot Dispatch Program Surcharge rate at \$35/move, effective October 1, 2021, and to not extend past December 31, 2022. Vice President Schmid seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

MOTION: President Hayes-White moved to accept acknowledgement that the Finance Committee received the San Francisco Bar Pilots' request for recovery, that the Finance Committee and Board staff have reviewed the documentation for recovery, that the recovery of \$551,382 is consistent with the pilot boat maintenance surcharge, and that the Board initiate the Pilot Boat Maintenance Surcharge rate at \$90/move, effective October 1, 2021, and to not extend past December 31, 2023. Commissioner Carr seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

15. Report on shipping activity regionally and within the Board's jurisdiction (Captain McIntyre)

SFBP Business Director Captain McIntyre commented that Port Agent Carlier covered the relevant issues. She reported that an article was recently published that the U.S. Chamber of Commerce plans to address the supply chain disruption issues and anticipates the disruption to continue through 2022. Recently there were 73 ships waiting at Los Angeles, and she is unsure why the ships are not coming to the Bay Area. She noted that the average wait time for the ships in Los Angeles is up to 8 days. The trends do not seem to be improving.

Mr. Jacob commented that at a previous Board meeting, when there are too many ships, then the ships start coming to the Bay Area, and isn't sure why it is not happening now. He's aware that some of the ships are intentionally skipping Oakland due to concerns of additional delays if they were to come, and skipping the Pacific northwest for the same reason. There is some congestion up north, but they are running out of warehouse space. The cargo isn't picked up on time and is causing warehouse to fill up quickly. He reported that there will be a meeting that will encourage carriers to come to the Port of Oakland and address various issues such as those from truckers and exporters. He agreed with SFBP Business Director Captain McIntyre that the disruption will continue through 2022. The government is

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addressing the issues by making changes such as extending gate hours for truckers on both sides of the terminals in Los Angeles.

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

There were no public comments.

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

Commissioner Nyborg requested that the Board consider monitoring closer on the reasons why UCSF have delays with clearing pilots to return to work.

Commissioner Carr requested that the Board consider having a November meeting due to review the Ad Hoc Committee to Review the Pilotage Rate Setting Process' progress.

18. Adjournment.

MOTION: Commission Prada moved to adjourn the meeting. Vice President Schmid seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved, and the meeting was adjourned at 11:56 a.m.

Submitted by:



Allen Garfinkle
Executive Director