

<p>Meeting Date:</p> <p>October 28, 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 12</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
Karen Tynan, Public Member
Stephanie Dougherty, Designee of the Secretary of the California State Transportation Agency (CalSTA)

Board Members Absent

Vacant, Dry Cargo Industry Member

Board Staff Present

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

Identified Public Present

Knute Michael Miller, Past Board President; 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; Captains Eric Robinson and James Murney, SFBP; and Captain Tony Chadwick, BOPC-licensee, retired.

OPEN MEETING AGENDA

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

President Hayes-White called the meeting to order at 9:35 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 September 23, 2021.

Administrative Assistant II Wong confirmed for President Hayes-White that the draft minutes from the September 23, 2021, meeting were not available yet. There was no further discussion.

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

Port Agent Carlier reported that Captain Russ Nyborg recently passed away on October 14, 2021, and will be a big loss in the maritime community. Captain Russ Nyborg was a pilot with SFBP for 35 years, and was a former President at SFBP. Port Agent Carlier sends his condolences to the family of Captain Russ Nyborg. Commissioner Nyborg thanked Captain Carlier for the comments and will pass them along.

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

President Hayes-White reported that Executive Director Garfinkle is absent for this Board meeting. On behalf of the Board, she also sends Commissioner Nyborg their condolences on the loss of his father.

5. Board Member Announcements and Activities (Board Members)

There were no announcements.

6. Directors' Report (Executive Director Garfinkle)

President Hayes-White reported that the Executive Director's report will be presented at the next Board meeting in October 2021.

A) Correspondence and activities since the Board meeting held on September 23, 2021.

B) Report on pilot licensing matters since the Board meeting held on September 23, 2021.

C) Report on Board surcharges.

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

E) Report on legislative activities and contractual matters.

SSM I Pugh reported that there were no legislative matters to report.

SSM I Pugh reported that the 45-day public comment period for the Trainee Training Program regulation amendments began on October 22, 2021 and will end on December 6, 2021.

SSM I Pugh reported the following on contractual matters:

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- A Non-competitive bid contract justification is being reviewed by California Highway Patrol (CHP) contract staff for the manned model contract.
- The amendment to the current contract with the San Francisco Bar Pilots was submitted to DGS and is pending 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 (UCSF) campus is still under review by UCSF staff.

Vice President Schmid wanted to know the status of the vacant Assistant Director’s position. Ms. Dougherty responded that the position has been posted and CalSTA is working on the hiring process.

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

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. In September, there were seven MRP exceptions, with the shortest rest period being 8.2 hours. He clarified that the reason for such a short rest period was the need to make alternative rest accommodations for a pilot, whose hired car went to the wrong city, therefore the pilot had to spend the night in Stockton, and returned by accepting another assignment from Stockton back to the central bay the following day.

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B) Monthly report on SFBP ship piloting business activity.

For the month of September, Port Agent Carlier reported normal operations for P/V CALIFORNIA, P/V DRAKE, P/V GOLDEN GATE, and P/V PITTSBURG. He reported that P/V SAN FRANCISCO has been scheduled for planned maintenance.

Port Agent Carlier reported that vessel moves for September 2021 were as follows:

- Bar Crossings: 357 moves
- Bay Moves: 113 moves
- River Moves: 74 moves
- Total Moves: 544 moves
- Gross Registered Tons (GRT): 17.0 Million

He also reported that when comparing 2021 year-to-date vessel move data with the same period in 2020, total moves were down 4.1% and GRT is down 20.4%.

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.

Commissioner Nyborg requested that the Board review a letter from the Captain of the Port, addressed to Captain Long, which was included in the Board meeting documents as part of the Executive Director’s report, and he felt the Board should be aware of it.. Captain Lam, U.S. Coast Guard Captain of the Port of San Francisco, thanked Captain Long for his quick actions after the bulk carrier M/V STAR CARIOCA experienced a reduction in propulsion, he safely navigated the vessel to emergency anchorage for further assessment of the vessel’s condition, and ensured that all parties were notified. Commissioner Nyborg added that when a situation arises where the Captain of the Port acknowledges an individual’s action, it is worthy of bringing it to the Boards attention.

Commissioner Carr added that Captain Long handled the assignment well and noted that completing an emergency anchor in the area was a challenge. He reported that the pilots encounter these situations frequently, but for the Captain of the Port to draft a letter may suggest that the situation was more serious than usual.

Commissioner Tynan thanked Commissioners Nyborg and Carr for highlighting this item and that it is helpful to the public members of the Board, as well as the general public, to

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be made aware of incidents that have good outcomes, especially since the public is more likely to hear about events that don't go well.

Commissioner Carr thanked Port Agent Carlier for clarifying the unusual circumstance of a MRP of 8.2 hours.

Commissioner Nyborg clarified for the Board that SFBP reports MRPs that are under 12 hours. He noted that the goal is to ensure not going below 10 hours of rest for safety reasons. He added the objective is to achieve 8 hours of rest.

8. Pilot Evaluation Committee (Captain Robinson)

A) Report on the Pilot Evaluation Committee (PEC) meeting held on October 20, 2021.

PEC Committee Chair Captain Robinson reported on the following:

- The PEC met on October 20, 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 seven trainees: Captains Adams, Barnum, Olmsted, Pascucci, Sappington, Snapp, and Weber. The trainees' range of time in the program is 6 months to 25 months.
- Captains Adams and Weber received their First-Class pilotage endorsements for unlimited tonnage on San Francisco Bay by the U.S. Coast Guard. Captain Weber 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 in all areas.
- Captains Barnum, Olmsted, Pascucci, Sappington, and Snapp are acquiring route trips and handling or part handling vessels in all areas and testing.
- All trainees are presently meeting the recommended benchmarks in the program and are progressing at their own rate.
- The next PEC meeting is pending, depending on the next Board meeting's schedule.

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.

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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.**

There was no recommendation.

- 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.**

There was no recommendation.

Captain Robinson confirmed for Commissioner Nyborg that the PEC is expecting to provide orientation to two more candidates joining the Pilot Trainee Training Program on November 2, 2021.

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

Port Agent Carlier reported that there was a pilot ladder deficiency that took place on October 19, 2021, on bulk carrier M/V MORNING CLOUD. The vessel had a 12-meter freeboard with just a ladder, instead of the ladder in gangway combination. After Captain Rubino had climbed the 12 meters, he had to crawl between the deck of the ship and the gangway that the crew did not seem to know how to rig properly.

Commissioner Nyborg reported that when he was attending the manned model training in France, one of the discussions included that one French shipping company seemed to be losing their senior masters due to the large size of the vessels, and the masters preferred to retire rather than working with such large vessels, resulting in junior officers moving up into these positions. He is concerned that this might result in masters with less experience being placed on vessels sooner than might be the case normally, and that it is important for pilots to notify the ship's captain when the pilot ladder isn't rigged properly.

**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 December 9, 2021.**
- 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 December 9, 2021.**
- C) **Initial report of interaction between the M/V CHARLIE and the moored M/V EVA SHANGHAI in the Port of Stockton on October 17, 2021.**

Incident Review Committee (IRC) Chair Schmid reported that the Committee is seeking extensions for the incidents with M/V HYUNDAI NEPTUNE, M/V HANOVER EXPRESS, AND M/V THALASSA AVRA, and M/V GLOBE PEGASUS, due to staff workload. She has no additional details regarding the interaction between the M/V CHARLIE and the moored M/V EVA SHANGHAI.

Port Agent Carlier reported that in the M/V CHARLIE incident, the ship that was passing by was coming in at 2.5 knots into the Port of Stockton. M/V EVA SHANGHAI was notified to keep their lines secured, the ship did have their long spring lines as they were shifting up and down the dock with their cargo. The pilot who had brought M/V EVA SHANGHAI in two days earlier, was the same pilot on M/V CHARLIE. The pilot noticed that M/V EVA SHANGHAI did not have a secure stern tie-up, and the lines were completely slack when he passed by with M/V CHARLIE. He added that it was not possible for M/V CHARLIE to move slower than 2.5 knots.

MOTION: Commissioner Nyborg 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 December 9, 2021. Commissioner Prada seconded the motion.

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

ACTION: The motion was approved.

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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.

There was no discussion of this agenda item.

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 reported that the Committee has not met, and she has nothing new to report.

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 October 7, 2021, and October 26, 2021. Possible recommendation to Board to change the statutory rate setting process. Possible Board action to approve Committee recommendation to proceed with statutory changes the rate setting process.

Committee Chair Captain Carr reported that the Ad Hoc Committee to Review the Pilotage Rate Setting Process met on October 7, 2021, and October 26, 2021. He reported that the Committee has made some progress while reviewing the rate-setting process. Commissioner Tynan has been assisting the Committee by keeping notes on the possible items to consider that are relevant to the rate-setting process. He noted that the notes will be available at the next Committee meeting. He reported that the next Committee meeting is tentatively scheduled for November 10, 2021. He reported that Committee has been discussing a rate-setting process that includes an Administrative Law Judge (ALJ) and for the Board to make a decision based on the ALJ's recommendation, which will then be forwarded to CalSTA for the final approval. He anticipates that the Committee may reach a conclusion on the rate-setting process, at the next Committee meeting, and will present the recommendation at the December 2021 Board meeting. There are still a few details the Committee needs to finalize, such as the factors listed in the regulations, but the Committee's priority currently is regarding the process.

Commissioner Tynan reported that the Committee has reviewed other states' rate-setting processes, to reach a rate-setting process for this jurisdiction that is faster, more efficient, and

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fair. Board Counsel Eagan has also been assisting the Committee with input regarding administrative processes. She also noted that stakeholders have provided the Committee with their concerns.

Commissioner Nyborg commented that he has attended almost all of the Committee meetings and noted that the Committee has put in a lot of effort in researching the process of the west coast ports and Hawaii, to identify a rate-setting model that will best suit San Francisco's needs. He found it helpful that stakeholders can present and discuss their concerns.

14. Review the results of the Retirement Survey conducted in July of 2021. (Administrative Assistant Alethea Wong)

Administrative Assistant II Wong reported that she has completed a draft of the Retirement Survey Staff Report, but it has not been reviewed yet, and is not available to be presented.

Commissioner Carr was able to review the Retirement Survey Staff Report but the report will be presented at the next Board meeting, and requested Board staff to post the report on the Board's website.

15. Discuss progress of Pilot Fitness Program regulation implementation, current state of the board contract negotiations with the University of California San Francisco Medical Center, Occupational and Environmental Medicine Clinic, and related issues with delayed reports following medical assessments. (Executive Director Garfinkle)

Commissioner Nyborg requested that Board staff keep this agenda item on the next Board agenda with updates from Executive Director Garfinkle. He noted that he's concerned with delays of pilots returning to work.

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

SFBP Business Director Captain McIntyre noted that the number of moves were lower in October 2021, compared to September 2021. Bar crossings are down 25%, GRT is down 32%, pilotage bills are down 26% (\$9 million). She noted that the lack of shipping activity is also affecting other modes of transportation of goods, and how shipping activity in the Bay area is still low, but there is a congestion in the Los Angeles area. She has heard that some of the ships in Los Angeles will be coming to the Port of Oakland instead. She noted that this may also increase congestion due to already scheduled ships coming to the Port of Oakland. She reported that there are 22 cruise vessels scheduled to come to the Bay area before the end of 2021. She expects the trend of fewer vessel movements in the area to continue for some time to come. She reminded the public that the vessel movement charts that are a part of the Port Agent's report are very helpful and list the numbers for the month, and compare the

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numbers with the previous year. She thanked the industry for assistance with short-term solutions to help mitigate the pilots' revenue losses and expenses.

Mr. Jacob thanked SFBP for their flexibility and their efforts. He noted that other than congestion in Los Angeles, vessel strings are skipping the Pacific Northwest due to congestions in Los Angeles and Long Beach. The demand for both export of loaded and empty containers back to Asia, and the delays in vessel schedules, are dictating that vessels leave Los Angeles and Long Beach full, therefore these vessels won't be making stops in Oakland or the Pacific Northwest.

PMSA has been working with the Port of Oakland for direct calls to Oakland and some shipping companies are doing so, to avoid the congestion in Los Angeles and Long Beach. He reported that in three days, Los Angeles and Long Beach will be adopting demurrage rules that have already been imposed on ocean carriers, which will apply \$100/day, after 9 days of dwell on a terminal. He's not sure if this will drive shipping companies to other ports. He confirmed that there is a shortage of chassis and trucking capacity. He added that another problem is when empty containers are at the ports occupying space, leaving less room for full containers. He reported that PMSA has been working with the Governor's office for a new executive order to identify additional property to store additional containers off-site. The issue is significant enough where there may be a possible partnership between the State and U.S. Department of Transportation. He commented that the number of vessel movements is concerning since the numbers are so low during the peak season.

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

There were no public comments.

18. Discuss monthly board meeting schedule and re-visit previous decision to cancel the November Board meeting.

Possible action by Board to amend the Board meeting schedule.

President Hayes-White reported that the Board normally meets on the 4th Thursday of the month, except for November and December due to the holidays. The Board had previously voted that, due to the short interval between the October and November Board meetings, the Board will forgo having a November Board meeting. Commissioner Carr reported that the Ad Hoc Committee to Review the Pilotage Rate Setting Process was expecting to make a recommendation to the Board and wanted the opportunity to do so earlier, rather than later at the December Board meeting, and he had requested that Board staff add this agenda item, but the Committee did not have a recommendation available yet. Therefore, he does not see a need for the Board to meet in November 2021. The Board agreed to keep their previously agreed upon schedule of not having a November Board meeting, and will meet again on

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

Commissioner Nyborg reminded Board staff to keep agenda item 15 on the next Board agenda.

Commissioner Carr requested that agenda item 13 be on the next Board agenda, and that he will work with Board staff on the next Ad Hoc Committee to Review the Pilotage Rate Setting Process meeting agenda. He anticipates that the Committee will have a recommendation at the December 2021 Board meeting.

20. Adjournment.

MOTION: Commissioner Prada. Commissioner Tynan seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved, and the meeting was adjourned at 10:41 a.m.

Submitted by:



Allen Garfinkle
Executive Director