

<p><b>Meeting Date:</b></p> <p><b>March 24, 2022</b></p>	<p><b>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</b></p> <p><b>BOARD MEETING MINUTES</b></p>	<p><b>Page 1 of 22</b></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**

Allen Garfinkle, Executive Director  
Dennis Eagan, Board Counsel  
Jennifer Barton, Assistant Director  
Alethea Wong, Administrative Assistant II

**Identified Public Present**

Captain Anne McIntyre, SFBP Business Director; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; Captain Eric Robinson, SFBP; Captain Kris Laakso, SFBP; Captain Chris Pyne Mercier, SFBP; Captain Dan Murney, SFBP; Captain Dylan Epperson, SFBP; Captain Paul Ruff, SFBP; Captain Zach Kellerman, SFBP; Captain Shane Wehr, SFBP; Roma Cristia-Plant; Dan Noyes KGO TV; Eric Osen; Frank Johnston, RADM.

**OPEN MEETING AGENDA**

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

President Hayes-White called the meeting to order at 9:38 a.m.

Executive Director Garfinkle explained the BOPC website has been down since approximately 7am due to the California Department of Technology experiencing technical difficulties. He stated there are fifteen other state agencies experiencing issues and their websites are affected by the outage. He stated the public is unable to attend the BOPC meeting because the Webex link for the meeting is on the website, which is not currently accessible.

Administrative Assistant II Wong called the roll and confirmed a quorum.

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The Board discussed a continuance of the March 24, 2022 Board meeting due to restricted access to the Webex meeting via the BOPC website. During the discussion, the BOPC website came back online and was accessible to the public at 9:49 am. The Board meeting was held as scheduled.

**2. Review and approval of Board meeting minutes (President Hayes-White)**

The draft meeting minutes from October 28, 2021, and January 27, 2022, and February 24, 2022, were not available for approval and approval was deferred to the next Board meeting on April 21, 2022.

- A) **Board action to approve the minutes from the Board meeting held on October 28, 2021.**
- B) **Board action to approve the minutes from the Board meeting held on January 27, 2022.**
- C) **Board action to approve the minutes from the Board meeting held on February 24, 2022.**

Commissioner Captain Nyborg requested the minutes for the Ad Hoc Committee to Review the Pilotage Rate Setting Process meetings be completed as soon as possible. Executive Director Garfinkle reminded the Board staff have been working at seventy-five percent staffing for over two years. He stated there were over fifteen Ad Hoc meetings in ten months, amongst other workload priorities. He explained the Board staff is working to get caught up on the minutes, which are secondary to licensing.

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

There were no comments.

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

There were no announcements.

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

Commissioner Captain Carr inquired about the Final Report completed by the Ad Hoc Committee to Review the Pilotage Rate Setting Process. He wanted to know if there was any feedback from the Legislature, CalSTA, or the Governor. Executive Director Garfinkle stated the report was sent out but there has been no feedback at this time. Commissioner Captain Carr reinforced the Final Report describes the expectations for the Board to advocate the

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Committee’s recommendations to the Legislature and Governor’s Office. He stated we may need to follow-up with the Legislature, CalSTA, and the Governor and offer additional information, such as a presentation by the Committee to explain the report or to clarify how the Board can assist with moving the recommended changes forward.

Commissioner Tynan inquired about two items. First, she wanted to know if there were action items for the Board in relation to following-up with the Final Report submitted to the Legislature, CalSTA, and the Governor. Second, she wanted to know if an agenda item regarding conflict of interest issues was going to be added to the next agenda.

President Hayes-White explained there is an opportunity under agenda item number twenty to add an agenda item.

President Hayes-White asked for a copy of the letter sent out to the Legislature, CalSTA, and Governor to be shared with the Commissioners. Executive Director Garfinkle said he could share the letter and explained the Board staff have never undertaken a legislative initiative and next steps are not fully clear. He stated it may be better covered by lobbyists familiar with the Sacramento territory and the placeholder bill rather than Board staff knocking on doors in Sacramento. President Hayes-White said she was unfamiliar with the process and opened it up to the floor.

Commissioner Captain Carr inquired if Commissioner Dougherty was aware of CalSTA’s impressions of the report. Commissioner Dougherty explained there are no thoughts on immediate next steps and CalSTA appreciates the Final Report, which is currently under their review.

Commissioner Captain Nyborg stated he attended a meeting with West Coast pilot groups and discussed issues with piloting on the West Coast.

## **6. Directors’ Report (Executive Director Garfinkle)**

### **A) Correspondence and activities since the Board meeting held on February 24, 2022.**

Executive Director Garfinkle reported on the following:

- On February 28, 2022, Board staff sponsored a post on the website GCaptain to advertise the 2022 Pilot Trainee Training Program Selection Exam. To date, the post has garnered approximately 17,000 hits, with 2,400 shares. The sponsored post was also reposted (for no fee) on a web site called Marine-Pilot.com.
- Also on February 28, 2022, Board staff provided the new CalSTA Secretary with a transition document describing the role of the Board.

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- On March 3, 2022, the Executive Director attended a Pilot Power Committee meeting.
- Also on March 3, 2022, Board staff met with Sheri Tonn, President of the Washington State Pilotage Commission, and discussed issues relevant to both California and Washington Commissions.
- On March 7, 2022, the Executive Director attended a Finance Committee meeting.
- On March 9, 2022, the Executive Director joined members of the Pilot Evaluation Committee at an Exam Workshop at CMA to work on the exam simulator module.
- Also on March 9, 2022, the Executive Director received a Public Records Act request from KGO-TV reporter Dan Noyes for the Pilot Power Meeting recordings from the meetings held on December 22, 2021 and March 3, 2022.
- On March 11, 2022, the Executive Director attended a memorial for retired pilot and past SFBP President, Russ Nyborg.
- Also on March 11, 2022, the Executive Director complied with the Public Record Act request of KGO-TV reporter Dan Noyes by providing him with the requested recordings.
- On March 14, 2022, the Trainee Regulations modifying the minimum qualifications for the exam and adding an interview process, was filed with the Secretary of State. As we requested the regulations to be effective upon filing, they were effective as of that date.
- On March 15, 2022, we received confirmation from two ship masters, who were previously exam evaluators on our 2019 exam, that they were willing and able to participate in the 2022 Trainee Training Selection Exam.
- On March 16, 2022, the Executive Director attended a meeting of the Pilot Evaluation Committee.
- On March 21, the Executive Director attended a Director's meeting at CalSTA.
- On March 22, the Executive Director followed up on an inquiry he had made about seeking a state-licensed pilot from another jurisdiction for the role of evaluator for the 2022 exam, by speaking at some length with Captain Carolyn Kurtz, a Tampa Bay Pilot in Florida. The Executive Director thanked Commissioner Tynan for this lead. Captain Kurtz may also be able to recommend other state-licensed pilots in other jurisdictions to assist in the exam. In 2019, we drew our state-licensed pilots from another jurisdiction from Oregon, one of which was Captain McIntyre.
- Also on March 22, 2022, we received a copy of the PMSA West Coast Trade Report for March 2022. The report has the usual tallies of TEU trade, a note on the exporting of Teslas, a report on the pistachio trade, and a note that coal exports on the West Coast are limited to Long Beach, Richmond, and Stockton. Stockton and Richmond handle 70% of California's coal export tonnage. The report points out that draft restrictions in Stockton result in ships partially loading up on coal carried from Utah and Colorado by rail, and then having to top off at Levin Terminal in Richmond. That topping off in Richmond has faced legal challenges and a settlement has

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Richmond winding down the loading of coal by the end of 2026, calling into question the economic viability of coal ships calling in Stockton and leaving partially loaded. It appears that a planned coal exporting facility in Oakland may never see operation. Also included is a commentary by Jock O’Connell on the proposed Oakland baseball stadium and an article by Thomas Jelenic pointing out how rulemaking has outpaced reality by mandating newer trucks and then electrification of the truck fleets servicing the ports.

- On March 23, 2022, the Executive Director had a telephone meeting with KGO-TV reporter Dan Noyes, addressing questions he posed. His questioning revolved around issues addressed at the Pilot Power Committee meeting, including how many licensed pilots there were currently, the maximum number of licenses the Board can issue, how training is conducted, the impact of not having a full cadre of licensees, whether there had been any fatigue related incidents, and how we track whether the current level of licensing is adequate.

**B) Report on pilot licensing matters since the Board meeting held on February 24, 2022.**

Executive Director Garfinkle reported that since the February Board meeting, the board has issued license renewals to Captains Rubino, Pyne Mercier, and Aune.

**C) Report on Board surcharges.**

Executive Director Garfinkle reported that for the month of January, the Board received the following surcharge revenues from SFBP:

- Board Operations charge \$106,292.40
- Continuing Education surcharge \$24,899.80
- Trainee Training \$57,330.13

Executive Director Garfinkle reported that for the month of February, the Board received the following surcharge revenues from SFBP:

- Board Operations charge \$115,431.07
- Continuing Education surcharge \$25,338.10
- Trainee Training \$68,528.11

Executive Director Garfinkle reported that as of March 1, 2022, there are eighty-two pensioners, with two more pending retirements beginning next quarter (Captains Alden and Tylawski) and one disability pension applied for (Captain Kirk).

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The mill rate has been set for the First Quarter of 2022 at \$0.05006 (50.06 mills), based on a 12-month tonnage lookback period that ran from October 2020 through September 2021.

The mill rate for February was \$0.05006 (50.06 mills), and the tonnage for February was 18,341,172, resulting in collections totaling \$918,158.91, on a target of \$1,116,199.04, resulting in a variance of \$198,040.13, compared to January’s variance of 220,890.21, February’s variance was \$22,850.08 closer to target. The administrative costs for the month totaled \$3,049.85, making the total distribution for January \$915,109.06.

The last Cost of Living Adjustment (COLA) increase to the pension was April 1, 2020.

**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.**

Assistant Director Jennifer Barton reported on the following:

Report on Legislative Matters:

- AB 2056 Introduced by Assembly Member Grayson on February 14, 2022 proposes to amend HNC Section 1190.2. The purpose of this amendment ostensibly is to ensure requirements of any rule governing the emissions of commercial harbor craft imposed by the State Air Resources Board are included in the determination of pilotage rates, but may be a placeholder for broader legislative initiatives involving pilotage rates.

Bill status as of 3/23/2022: The California Assembly Transportation Committee made an affirmative recommendation (Do Pass) and moved the bill to the Assembly Committee of Appropriations. The bill is currently located with the Assembly Committee of Appropriations.

Report on Contractual Matters:

New/Renewing:

- UCSF Pilot/Trainee Medical Assessments: CHP is finalizing the agreement prior to second level review. (Estimated Completion Date is 6/30/2022)
- Manned Model Training Services: CHP is sending the agreement to ARTELIA for their review before submitting to DGS for approval. DGS approval is required for all

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- Non-Competitive Bid agreements. Once it is sent to DGS, the review process takes approximately thirty days and we will need to be prepared to respond to follow-up questions within 1 to 2 days. Assistant Director Barton stated she may need to reach out to Subject Matter Experts (SME's) in order to respond to DGS inquiries and if anyone is a SME to let her know. (Estimated Completion Date is 6/01/2022)
- Investigation Services: We've received two bids for investigation services. CHP will be processing the award and executing agreements with Captains Hill and O'Callaghan. The new contracts will be in place for three fiscal years 22/23 through 24/25 and will begin 5/1/22.
  - Trainee Drug Testing: BOPC staff is obtaining vendor quotes for a fair and reasonable agreement. CHP has started drafting the agreement. (Estimated Completion Date is 06/01/2022)
  - CMA/Pilot Trainee Training Program: Training Program simulator examination development, and administration. CHP is reviewing documents. (Estimated Completion Date is 06/30/2022)

Commissioner Captain Nyborg inquired about convening the Pension Committee to determine if there should be an adjustment to the surcharges to account for COLA. Executive Director Garfinkle explained the rule regarding COLA. He stated if there is a cost of living increase of 12% or after three years, the rate is reviewed. Executive Director Garfinkle stated, as reported last month, he and the Assistant Director separately calculated the change in COLA and found the increase was 6%, which doesn't meet the 12% rule. Executive Director Garfinkle explained meeting the pension target is mainly dependent on the lookback period and tonnage, not COLA increases. He stated the surcharge amount is set based on a formula in HNC Section 1165.

**7. Port Agent's Report (Captain Kris Laakso on behalf of Port Agent Captain Carlier)**

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

Captain Laakso reported that the following pilots were absent for medical reasons (AFMR):

- Captain Kasper since June 2020
- Captain Alden since April 30, 2021
- Captain Slack since December 15, 2021
- Captain Lowe since January 27, 2022

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Captain Laakso 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, SFPB will ensure that mitigating measures are enacted. He reported that mitigating measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings, cancelling previously granted compensated time off requests, suspending SFBP internal working rules, or calling in off-watch pilots.

He reported there are currently 51 licensed pilots. In February there were 8 MRP exceptions, with the shortest rest period being 10.3 hours.

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

For the month of February, Captain Laakso reported normal operations for all pilot vessels except for P/V CALIFORNIA which experienced a failed starboard main engine fuel line on February 27, 2022, which was replaced on February 28, 2022, and P/V GOLDEN GATE, which was offline from February 2, 2022, through February 7, 2022, while having a damaged propeller replaced.

Captain Laakso reported that the billed vessel moves for February 2022 were as follows:

- Bar Crossings: 363
- Bay Moves: 125
- River Moves: 51
- Total Moves: 539
- Gross Registered Tons (GRT): 18.3 million

He also reported that when comparing 2022 vessel move data with the same period in 2021, total moves were down 6.1% and GRT was down 17.2%.

**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.

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

**A) Report on the Pilot Evaluation Committee (PEC) meeting held on March 16, 2022.**



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PEC Chair Captain Robinson reported on the following:

- The PEC met on March 16, 2022, 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.
- The PEC continues to work at the California Maritime Academy developing the next simulator exam scheduled for June 2022. Additional days are scheduled for simulator development leading up to the exam date. In addition to the PEC members, two additional pilot volunteers are required to conn the ship through the simulation. Captain Robinson explained that valuable information is obtained with every simulation run.
- 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, Burns, Olmsted, Pascucci, Sappington, and Snapp. The trainees' range of time in the program is 4 months to 29 months.
- Captain Adams, Olmstead, and Barnum have First Class pilotage endorsement for unlimited tonnage upon San Francisco Bay issued by the Coast Guard on their federal licenses.
- Captains Adams, Olmstead, and Barnum are handling in all areas. Captain Adams is currently on probation and continues to work on consistency in his piloting.
- Captains Burns, Pascucci, Sappington, and Snapp are acquiring route trips and handling or part handling vessels in all areas.
- Most trainees are presently meeting the recommended benchmarks in the program and are progressing at their own rate.
- The next PEC meeting is scheduled for April 20, 2022, 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 or off 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.**

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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.

- 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 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 April 28, 2022.**

Executive Director Garfinkle explained the 90-day statutory deadline occurred in July 2021. He stated the incident report is not completed yet and the delay is due to staff workload. The IRC requests an extension to April 21, 2022. There is no danger to public safety due to the delay in presenting the report.

- B) Status report of interaction between the M/V CHARLIE and the moored M/V EVA SHANGHAI in the Port of Stockton on October 17, 2021. Possible Board action to grant the Incident Review Committee an extension to present the M/V CHARLIE report at the Board meeting to be held on April 28, 2022.**

Executive Director Garfinkle explained the 90-day statutory deadline occurred in January 2022. He stated the incident report is not completed yet and the delay is due to staff workload. The IRC requests an extension to April 21, 2022. There is no danger to public safety due to the delay in presenting the report.

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- MOTION:** Commissioner Prada moved that the Board grant an extension to the Incident Review Committee to present its report on the M/V GLOBE PEGASUS and M/V CHARLIE at the Board meeting to be held on April 21, 2022. Commissioner Captain Carr seconded the motion.
- VOTE:** YES: Hayes-White, Schmid, Nyborg, Carr, Prada, and Tynan.  
NO: None.  
ABSTAIN: None.
- ACTION:** The motion was approved.

Executive Director Garfinkle thanked the Commissioners for the extension.

#### **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 three equipment failures, one loss of propulsion failure, and one engine failure from the February 2022 Significant Port Safety and Security Cases.

Executive Director Garfinkle stated one of the equipment failures was on a U.S. flagged passenger ferry moored at the SF Ferry building with no passengers aboard, the ferry was removed from service after reporting a drop in oil pressure and transited to Alameda for repairs. The second equipment failure was on a U.S. flagged commercial fishing vessel, which experienced an equipment failure approximately 8 miles north of Humboldt Bay with three persons aboard. The vessel was towed back to Humboldt Bay, inspected, and no deficiencies identified. The third equipment failure was on a U.S. flagged vessel transiting through the South China Sea. All three cases were closed.

Executive Director Garfinkle stated a U.S. flagged commercial fishing vessel suffered a loss of main propulsion while underway near the entrance of Humboldt Bay. The cause was determined to be from broken reduction gear heat exchanger suction strainer and securing the main engine. The vessel was towed back and inspected with no deficiencies and the case was closed.

Executive Director Garfinkle stated a U.S. flagged small passenger vessel was departing the San Francisco Ferry building with 114 passengers on board when they experienced an alarm for a water pump failure on one of its engines. The vessel returned and dropped off passengers then transited back to Vallejo to conduct repairs. The vessel conducted repairs to the satisfaction of the USCG and this engine failure case was closed.

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**12. Finance Committee meeting (Committee Chair Captain Nyborg)**

**A) Report on the Finance Committee meeting held on March 7, 2022.**

Committee Chair Captain Nyborg reported that the Finance Committee met on March 7, 2022 and reviewed the Board's financial statements for January 2022 (FM07) and financial information on surcharges set by the Board.

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

The below agenda items were discussed together.

- 1) To adjust or not adjust the Board Operations Surcharge rate (currently at 5.5% of all pilotage fees), and the revenues, expenditures, and reserve balance. **Possible Board action to adjust the Board Operations Surcharge rate.**
- 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.**
- 3) To adjust or not adjust the Pilot Trainee Training Surcharge rate (currently \$20/trainee/move). **Possible Board action to adjust the Pilot Trainee Training Surcharge rate.**
- 4) To adjust or not adjust the Pilot Dispatch Program Surcharge rate (currently \$35/move). **Possible Board action to adjust the Pilot Dispatch Program Surcharge rate.**
- 5) To adjust or not adjust the Pilot Boat Maintenance Surcharge rate (currently \$90/move). **Possible Board action to adjust the Pilot Dispatch Program Surcharge rate.**

Committee Chair Captain Nyborg reported that the Committee recommends that the Board Operations, Pilot Continuing Education, and Pilot Trainee Training Surcharge rates remain the same.

Committee Chair Captain Nyborg reported that the Committee recommends the Board increase the Pilot Dispatch Program Surcharge rate from \$35 to \$75 per move, effective April 1, 2022.

Committee Chair Captain Nyborg reported that the Committee recommends the

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Board increase the Pilot Boat Maintenance Surcharge rate from \$90 to \$200 per move, effective April 1, 2022.

Finance Committee Member Captain McIntyre explained the reason the Committee is requesting the rate increases is to increase current cashflow to SFBP. She stated SFBP’s cashflow has significantly declined and raising the surcharges will help defray costs SFBP is incurring right now.

President Hayes-White inquired when the surcharges were last increased, Committee Member Captain McIntyre explained the surcharges were implemented in October 2021 and this is the first request for an increase.

Vice President Schmid inquired if the surcharges are being raised to cover other costs by SFBP. Committee Member Captain McIntyre clarified the increase will not cover unrelated costs, rather it will allow SFBP to accelerate recovery of their costs related to the surcharges.

**MOTION:** Commissioner Captain Prada moved that the Board approve the Finance Committee recommendation that the Pilot Dispatch Program Surcharge rate be increased from \$35 to \$75 per move and the Pilot Boat Maintenance Surcharge rate be increased from \$90 to \$200 per move, effective April 1, 2022. Commissioner Tynan seconded the motion.

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

**ACTION:** The motion was approved.

- C) Report on the Finance Committee’s recommendation for authorization of the San Francisco Bar Pilots Association’s recovery of Pilot Vessel Maintenance expenditures for the period August 1, 2021 to December 31, 2021 in the amount of \$461,982, and with recovery to begin on April 1, 2022, as authorized by Harbors and Navigation Code Section 1190.5. **Possible Board action to authorize the San Francisco Bar Pilots to recover Pilot Vessel Maintenance expenditures for the period August 1, 2021 to December 31, 2021 in the amount of \$461,982, with recovery to begin on April 1, 2022.**

Committee Chair Captain Nyborg reported SFBP has incurred pilot vessel maintenance expenditures from August 1, 2021 through December 31, 2021 in the amount of \$461,982. The Committee is requesting approval for SFBP to recover costs beginning April 1, 2022 in accordance with HNC Section 1190.5.

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Finance Committee Member Captain McIntyre stated AB 807 with the Pilot Vessel Maintenance Surcharge authorized up to \$1,400,000 for reimbursement of costs related to pilot vessel maintenance. She stated this request is SFBP's second request to recover funds expended for pilot vessel maintenance.

Executive Director Garfinkle clarified this will allow SFBP to draw from Pilot Vessel Maintenance Surcharge funds which have been collected and accumulated. Finance Committee Member Captain McIntyre affirmed the statement.

Committee Member Captain McIntyre clarified for Committee Chair Captain Nyborg the Pilot Dispatch Program was a set amount and the full recovery has already been approved by the Board.

Executive Director Garfinkle explained there is an itemized list of Pilot Vessel Maintenance expenditures available on the website.

Finance Committee Member Jacob explained the two surcharges under AB 807, Pilot Dispatch Program and Pilot Vessel Maintenance, were established as cost recovery. He stated it is appropriate to accelerate the collection of the surcharges and to allow for the recovery of expenditures. Finance Committee Member Jacob thanked the pilots for using the agreed upon process, which includes an overview of the costs, a declaration with respect to the costs from the Port Agent, and to provide invoice documentation to support costs over a certain dollar threshold.

**MOTION:** Commissioner Captain Prada moved that the Board authorize the San Francisco Bar Pilots to recover Pilot Vessel Maintenance expenditures for the period August 1, 2021 to December 31, 2021 in the amount of \$461,982, with recovery to begin on April 1, 2022. Commissioner Tynan seconded the motion.

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

**ACTION:** The motion was approved.

### 13. Pilot Power Committee meeting (Committee Chair Captain Carr)

Report on the Pilot Power Committee meeting held on March 3, 2022 and possible recommendation to the Board on the amount of trainees to have in the Pilot Trainee Training Program **Possible Board action to approve Committee recommendation on the amount of trainees to have in the Pilot Trainee Training program.**

<p><b>Meeting Date:</b></p> <p><b>March 24, 2022</b></p>	<p><b>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</b></p> <p><b>BOARD MEETING MINUTES</b></p>	<p><b>Page 15 of 22</b></p>
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Committee Chair Captain Carr reported that the Pilot Power Committee met on March 3, 2022 to review the results of the most recent pilot retirement survey and assess the adequacy of the number of pilots and pilot trainees. Committee Chair Captain Carr informed the Board of the Committee’s recommendation to seek a motion to authorize an increase to the training corps from seven trainees to eight.

Committee Chair Captain Carr reported the Board staff provided the results of the January 2022 retirement survey and developed a report to the Committee which provided two alternative recommendations for the Committee to consider. The first recommendation was to maintain at least eight trainees in the program with some recommendations to support that recommendation. The alternative recommendation discussed how to proceed with maintaining seven trainees in the program.

Committee Chair Captain Carr reported the staff report made recommendations based on the anticipated length of time a trainee is in the program. The report projected the number of trainees needed to regain and maintain sixty licensed pilots. The staff report used the data from the last pilot retirement survey to make projected needs for the next three years. To meet the projected needs, the report explained the training core would need to extend to ten trainees, utilizing the budget authority for the trainee program.

Committee Chair Captain Carr explained the Committee discussed the recommendations at length, particularly the budget authority to have up to ten trainees in the trainee program. Committee Chair Captain Carr stated that as the Chair he reiterated the PEC Committee’s recommendation, which is to keep the trainee program at eight.

Committee Chair Captain Carr stated in July 2020, the Committee requested staff to seek budget authority for ten trainees. He stated this request was made to provide the Executive Director with flexibility to contract with new trainees from the eligibility list while current trainees, expected to graduate within the next month, finished their evaluation period. The purpose of the request was to maintain continuity and a full program to meet the need of licensing pilots.

Committee Chair Captain Carr stated the PEC Chair, Captain Robinson, was in attendance at the committee meeting on March 3, 2022 and supported an increase to maximize the program at eight trainees but he would not like to see the program expand beyond eight trainees and the program has had reasons for maximizing at eight. Committee Chair Captain Carr stated the PEC Chair, Captain Robinson, added a compelling argument which was significant to reduction in ship traffic and according to industry reports will continue throughout 2022.

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There are fewer jobs for the trainees to participate in which lengthens the time a trainee is in the program and adding additional trainees would exacerbate the issue.

Committee Chair Captain Carr referred to the December meeting, when he brought up the number of licensed pilots reported in the Annual Legislative Report from 2009 to 2020. He stated the number of licensed pilots ranged as low as 53 in 2010 and 52 in 2020 and as high as 59 in 2017 and 2016. He stated the number of licensed pilots is currently at a low of 51, but by the end of 2022, there will be additional trainees graduating which will bring the number up to historical averages as we drive towards sixty licensed pilots.

The Committee feels it is appropriate to bring the core back up to eight to replace the candidate that left last December and utilize the budget authority for ten trainees only when a trainee is at the end of their evaluation stage.

Commissioner Captain Nyborg clarified the budget authority of ten trainees allows the board to bring in more trainees to fill vacating spots to maintain an overall core of eight trainees. Committee Chair Captain Carr confirmed and stated when discussing the increase to the budget authority in 2020, the intent was to maintain continuity in the program and maintain the program at eight trainees.

Commissioner Captain Nyborg stated if there are too many trainees in the program, there is not enough access for each trainee to seek quality jobs each month that he needs to benefit from the program, especially if we have declining jobs.

Commissioner Captain Prada stated in the Port Agent's Report, there are four pilots out on medical, one approaching a two-year mark of being out. How would adding additional trainees assist with pilots out on medical or other unforeseen events? Committee Chair Captain Carr stated the Committee tries to forecast the pilot and trainee needs for the next two years. He stated the staff report was good data for the Committee to look at and was based on the retirement survey. Committee Chair Captain Carr stated the Committee asked staff to make some improvements on how we conduct the survey to improve the quality of the data. He stated the quality of the data may have been watered down as we sent out 52 surveys and received 53 responses. Committee Chair Captain Carr stated adding more trainees doesn't solve the issue of being behind the eight ball now. He stated the Committee always tries to achieve sixty pilots, but over the past thirteen years, they've only been able to reach that goal one year. Committee Chair Captain Carr stated that having a corps of eight



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trainees doesn't mean we can't achieve the aim of having a pilot corps that can handle the work. He stated the Committee doesn't see a need to expand the program past eight.

Committee Chair Captain Carr stated there only five evaluators who grade the trainees, maintaining the training corps at eight trainees allows the trainees to get the quality jobs evaluations they need.

Commissioner Captain Nyborg noted the standard average number of pilots out due to not being fit for duty is around 10%, so the number of pilots currently out on medical is not uncommon. He stated the number of pilot trainee evaluators is five. However, there are only two to three available each week because the pilots work one week on and one week off. There are a lot of good reasons not to overload the training program. Having five evaluators and a decline in jobs are two of those reasons.

Commissioner Captain Prada asked if there were three candidates remaining on the eligibility list. Executive Director Garfinkle explained there are five candidates on the list, but two have requested to be moved to the bottom of the list, and he didn't think they were viable candidates because they are training in another program. Executive Director Garfinkle explained the current list expires by July 2022 and a new list should be available after the June exam.

Commissioner Captain Nyborg commented sixty is the authorized number of pilots. It is not a requirement. He stated the number of pilots fluctuates up and down and there is nothing exceptional about the number of current licensed pilots.

- MOTION:** Commissioner Tynan moved that the Board authorize an increase from seven to eight trainees in the pilot trainee training program. Commissioner Tynan seconded the motion.
- VOTE:** YES: Hayes-White, Schmid, Nyborg, Carr, Prada, and Tynan.  
NO: None.  
ABSTAIN: None.
- ACTION:** The motion was approved.

President Hayes-White called a brief ten-minute recess at 11:05am.

President Hayes-White resumed the meeting at 11:15am. Administrative Assistant II Wong called the roll and confirmed a quorum.

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**14. Ad Hoc Committee on Pilot Diversity Meeting (Committee Chair Schmid and Executive Director Garfinkle).**

Vice President Schmid stated there have been no committee meetings during the last month. She stated the only update, provided earlier by Executive Director Garfinkle, is the implementation of the regulatory changes related to the exam. Vice President Schmid recommended removing this agenda item from future Board meetings.

Executive Director Garfinkle agreed and stated the regulatory process is complete and the new regulations are in place and will be applicable for the upcoming exam in June. He stated the application filing period ends April 15, 2022.

Executive Director Garfinkle explained there is still a lot of work to do with CalHR to develop the interview process. He thanked the Pilot Evaluation Committee members, Captain Gates, and Cal Maritime staff for all their work to date developing the exam.

Executive Director Garfinkle explained he has received a lot of inquiries from candidates. Beginning April 16, 2020, application review will commence and will be time consuming for Board staff.

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

Captain McIntyre explained the financial situation continues to get worse. She stated the SFBP has laid up the P/V PITTSBURG and anticipates \$17,000 to \$20,000/month in cost savings. She stated SFBP has had conversations with the Port of Stockton to ensure their services will not be impacted. However, the Port of Stockton continues to have some concerns with the PITTSBURG being laid up. The Port of Stockton has been the only bright spot with the decline in shipping activity.

Captain McIntyre stated SFBP has been in a prolonged negotiation with the Port of San Francisco to renegotiate rent. She stated traffic continues to decline and the SFBP is in a negative cashflow situation where the money coming in is not enough to cover monthly expenses. She stated SFBP is deficit spending between \$250,000 to \$600,000 per month, which is not sustainable. Even with rate reform and emergency support, SFBP is in a bad situation.

Captain McIntyre compared SFBP’s average revenue, pre-pandemic, of \$44 million per year to SFBP’s 2021 revenue of \$31.2 million. She stated operating costs don’t vary and the statute requires SFBP to provide 24/7, 365, on-demand services. She stated the 29% revenue

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decline in 2021 has resulted in pilot distributions being down 35% in 2021 and distributions are down 40% this year. She stated based on January and February of 2022, the annualized revenue is projected at \$28.6 million for 2022. She explained that in the past five years the CPI has increased 13%.

Captain McIntyre stated SFBP has been engaged in positive and productive conversations with PMSA, WSPA, and CLIA and is hopeful we are able to come to an agreement for emergency support and have asked for options to implementing a \$41 million revenue floor.

Captain McIntyre stated the forecast is not good. SFBP used to move, on average, 8,800 ships. In 2021, SFBP moved 7,100 ships. She stated it is going to take legislative changes to improve the situation. There is no short-term relief in sight.

Commissioner Captain Prada inquired when the new pilot boat was going to be delivered and whether ship traffic has picked up. Captain McIntyre stated there has been some delay in the new pilot boat being delivered. It was planned to be delivered in November 2022, but it looks like it will be ready in January or February 2023. Captain McIntyre explained the pilot vessel construction is paid through a separate surcharge and SFBP borrows funds to finance the construction on the front end, and when the boat is complete, there is a surcharge established by the Board to reimburse SFBP for the construction costs. Captain McIntyre stated April is scheduled to be a good month for cruise ships with an expectation of 22 ships.

Vice President Schmid inquired if it is possible to delay taking possession of the pilot boat, thus delaying the final payment. Captain McIntyre stated the pilot boat recovery is outside of the pilotage rate and doesn't impact the cashflow. She stated AB 2056 language is to allow prospective collection for construction costs for pilot vessels. The construction of a pilot boat costs \$55 million.

Captain McIntyre stated the pilots are hurting right now, with a 35% reduction in income, and there are a lot of pilots having a hard time paying their bills.

Vice President Schmid inquired if there are any other West Coast ports being impacted as dramatically as San Francisco. Captain McIntyre stated southeast Alaska is 100% dependent on cruise ships and has been impacted greatly. The Port of Oakland continues to get bypassed because of the congestion in Los Angeles. Florida has had a decline as well, but they are not bound by an inflexible rate setting process.

Commissioner Captain Nyborg explained the P/V PITTSBURG serves the river pilots that move ships to and from Stockton and Sacramento. As a pilot and Board member, Commissioner Captain Nyborg is concerned with laying up active pilot boats to save money. He stated the Board needs to make a motion to fix the situation.

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Commissioner Captain Prada asked if any other saving options regarding facilities have been considered in addition to the Pier 9 rental negotiations taking place with the Port of San Francisco. Captain McIntyre stated they have investigated moving to the Port of Oakland and to Alameda. She said the Port of Oakland didn't want to pursue offering SFBP a location and Alameda is becoming residential.

Commissioner Captain Nyborg inquired if costs have increased over the last five years. Captain McIntyre stated expenses average \$15 million and SFBP continues to cut expenses to maintain costs. Commissioner Tynan stated based on the information and financials reviewed over time, cutting costs is not a way out of the financial situation. She stated she wants to be proactive with the rate setting changes.

Executive Director Garfinkle stated the negative financial situation impacts the Board's ability to attract and hold pilots.

Jacob thanked Captain McIntyre and the SFBP for all the work they are doing. He stated there is a lot of congestion in southern California, but it is improving. He stated there is a lot of volatility and uncertainty with pilotage revenue going forward and PMSA is committed to working with SFBP to move the rate setting legislative changes forward.

Commissioner Captain Prada asked since we are a state pilot system can the vessels that choose to ghost Oakland and call on the Southern California area, pay a surcharge. Jacob stated no one is going to voluntarily pay for southern California congestion. There are downstream impacts and each sector will have to address issues separately.

Commissioner Captain Nyborg stated SFBP is laying off pilot boats to cut costs which impacts service, safety, and fatigue. He stated he is concerned.

16. Presentation and discussion of a request for a disability pension by San Francisco Bar Pilot Captain Roger Kirk – Executive Director Garfinkle.

Presentation and discussion of disability pension request by SFBP Captain Roger Kirk.  
**Possible Board deliberation and finding on:**

A) Whether Captain Kirk is disabled within the meaning of Harbors and Navigation Code section 1164(b). In this context, "disabled" means a disability of permanent or extended and uncertain duration, as determined by the board, on the basis of competent medical opinion.

B) If the Board determines that Captain Kirk is disabled as defined in section 1164(b), the Board must determine the date that the disability became permanent (or of extended and uncertain duration).

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**Possible Board action determining whether Captain Kirk is disabled within the meaning of Harbors and Navigation Code section 1164(b), and the date that the disability became of a permanent or extended and uncertain duration. The Board may go into Closed Session to discuss Captain Kirk’s confidential medical reports as authorized by Harbors and Navigation Code, §1157.1**

Executive Director Garfinkle stated we are dependent on Dr. Kosnik’s medical expertise and he received a draft report from Dr. Kosnik at 9:45pm on March 23, 2022. As the report is in draft version and is not ready to be disseminated, Executive Director Garfinkle asked to move this agenda item to the April Board meeting.

Out of respect for the public’s time, Executive Director Garfinkle recommended the Board cover agenda items nineteen and twenty before going to closed session for agenda items seventeen and eighteen. The Board agreed.

**17. Board Written Decision Concerning the M/V THALASSA AVRA Incident (Board Counsel Eagan)**

**Board consideration and action on a draft of the Board’s formal written decision following the Board’s decision at the February 24, 2022, meeting concerning the M/V THALASSA AVRA incident. The Board may go into closed session to consider this item under section 11126(c)(3) of the Government Code.**

President Hayes-White moved to adjourn to a closed session to discuss agenda items 17 and 18.

Commissioner Schmid formally recused herself from deliberations on item 17 because she is a member of the Incident Review Committee.

The Board members went into a closed session at 12:15pm.

President Hayes-White resumed the meeting at 1:11pm. Administrative Assistant II Wong called the roll and confirmed a quorum.

**18. Performance Evaluation of the Executive Director (President Hayes-White)**

**Annual Performance Evaluation of Executive Director. The Board may go into closed session pursuant to 11126(a)(1) of the Bagley-Keene Open Meeting Act to discuss the evaluation.**

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

No public comments.

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

President Hayes-White reported there is a conflict for the next meeting date of April 28, 2022 for both Captain McIntyre and Captain Carlier and there is a request to reschedule the next Board meeting. Commissioner Captain Carr recommended moving the meeting up a week to April 21, 2022.

- MOTION:** Commissioner Captain Nyborg moved that the Board approve rescheduling the next Board meeting from April 28, 2022 to April 21, 2022. Commissioner Carr seconded the motion.
- VOTE:** YES: Hayes-White, Schmid, Nyborg, Carr, Prada, and Tynan.  
NO: None.  
ABSTAIN: None.
- ACTION:** The motion was approved.

Commissioner Tynan proposed to include an item regarding the Board's conflict of interest rules and the Assistant Director.

Vice President Schmidt proposed to include an item regarding meeting in person.

Commissioner Captain Carr proposed to include an item to follow-up with the Ad Hoc Rate Setting Committee's recommendations.

21. Adjournment.

- MOTION:** Commissioner Prada moved to adjourn the meeting. Commissioner Schmidt seconded the motion.
- VOTE:** YES: Hayes-White, Schmid, Nyborg, Carr, Prada.  
NO: None.  
ABSTAIN: None.
- ACTION:** The motion was approved, and the meeting was adjourned at 1:12p.m.

Submitted by:

  
 Allen Garfinkle  
 Executive Director