

<b>Meeting Date:</b>  <b>June 22, 2023</b>	<b>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</b>  <b>BOARD MEETING MINUTES</b>	<b>Page 1 of 20</b>
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### **Board Members Present**

Karen Tynan, President, Public Member  
Jennifer Ferrera Schmid, Vice President, Public Member (by phone)  
Joanne Hayes-White, Public Member  
Captain Einar Nyborg, Pilot Member  
Stephanie Dougherty, Designee of the Secretary of the California State Transportation Agency (CalSTA)

### **Board Members Absent**

Captain Robert Carr, Pilot Member  
Vacant, Wet Cargo Industry Member  
Vacant, Dry Cargo Industry Member

### **Board Staff Present (in person and by phone)**

Allen Garfinkle, Executive Director  
Matthew Millspaugh, Assistant Director  
Dennis Eagan, Board Counsel  
Alethea Wong, Licensing and Training Programs Manager

### **Identified Public Present (in person and by phone)**

Knute Michael Miller, Past Board President; Roma Cristia-Plant (by phone); 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; Captain Eric Robinson, SFBP; Kevin Baldwin, San Francisco Bar Pilots General Counsel; and Captain Todd Johnston, 2022 Pilot Trainee Training Examination Candidate (by phone).

## **OPEN MEETING AGENDA**

### **OPEN MEETING**

#### **1. Call to Order and Roll Call (President Tynan)**

President Tynan called the meeting to order at 9:45 a.m. Licensing and Training Programs Manager Wong called the roll and confirmed a quorum.

#### **2. Public comment on matters on the agenda or not on the agenda.**

Commissioner Nyborg reported that Commissioner Carr was in France for his manned model training and was unable to attend the Board meeting.

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SFBP Business Director Captain McIntyre requested that Board staff review their processes, including redaction of documents, when posting meeting information on the website. Captain McIntyre stated she is aware the Board is subject to the Bagley-Keene Open Meeting Act, but stated recent Board meeting documents included documents she felt were defamatory of her and other individuals, which could result in reputational harm to the parties involved.

Commissioner Nyborg commented that he did not object to the content posted regarding himself but understands that others are concerned. He agreed that the Board should consider what is made public, when posting content that is unsubstantiated. He noted that some of the content posted went back several years.

**3. Review and approval of Board meeting minutes (President Tynan)**

**Board action to approve the minutes from the Board meetings held on April 27, 2023, and May 25, 2023.**

Board members were presented with draft minutes from the April 27, 2023, and the May 25, 2023, meetings. Commissioner Nyborg commented that the draft minutes were posted to the website late in the day, on the day before the meeting, therefore the public may not have had time to review them. Vice President Schmid and Commissioner Hayes-White were ready to approve the draft minutes from the April 27, 2023, meeting, if the other Board members were prepared to do the same. Executive Director Garfinkle reported that the Board members received the draft minutes via email two days before the Board meeting, and he responded to Commissioner Hayes-White that the yellow highlighted text in the April 27, 2023, draft meeting minutes were comments Board staff referred to Commissioner Carr for clarification. Board members agreed the approval of the draft meeting minutes from April 27, 2023, and May 25, 2023, be deferred to the Board meeting in July.

**4. President Announcements and Activities (President Tynan)**

There were no announcements nor activities to report.

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

There were no announcements nor activities to report.

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## 6. Directors' Report (Executive Director Garfinkle)

### A) Correspondence and activities since the Board meeting held on May 25, 2023.

Executive Director Garfinkle reported on the following:

- On May 24, 2023, he shared a link to the KPIX news piece on the SFBP, featuring a pilot ride with BOPC licensee Captain Kellerman, with Tamie McGowen, CalSTA Deputy Secretary for Communications, who subsequently shared it with CalSTA senior staff.
- On May 25, 2023, he responded to a Public Records Act request from Captain Davis, a candidate for the 2022 Pilot Training Trainee Exam.
- On May 28, 2023, he received an email from Captain Davis responding to comments made during the May 25, 2023, Board meeting. Captain Davis noted that he took offense to Mr. Baldwin's assertion that Captain Davis "disseminated illegally" a recording which was sent to him. In the email, Captain Davis asserted he only provided the recording to authorities as part of ongoing investigations into the matter.
- On May 30, 2023, he responded to a Public Records Act request from Captain Barton.
- On May 31, 2023, Board staff received written comments from Captain Barton related to the proposed Pilot Fatigue regulations.
- Also on May 31, 2023, Board staff received written comments from Mike Jacob, Vice President & General Counsel of PMSA related to the proposed Pilot Fatigue regulations.
- On June 1, 2023, he attended a joint meeting of the Pilot Vessel Advisory Committee and the Finance Committee.
- Also on June 1, 2023, he attended a public hearing to receive comments on the proposed pilot fatigue regulations.
- Also on June 1, 2023, Board staff received information concerning SB 544, a bill that would remove indefinitely the requirement that a state body notice each teleconference location and that each teleconference location be open to the public. There was also language to promote public access to meetings.
- Also on June 1, 2023, he responded to a Public Records Act request from Captain Kasper.
- On June 2, 2023, he responded to a Public Records Act request from Captain Davis.
- On June 5, 2023, staff received a copy of the Puget Sound Pilot Transfer Arrangement Safety Newsletter, with the lead story being the fatal accident of a Japanese pilot while boarding a cruise ship.
- On June 14, 2023, he joined a meeting between Board staff and CHP contract staff.

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- Also on June 14, 2023, he received an invitation to participate in the State Leadership Summit on July 10, 2023, in Sacramento.
- On June 20, 2023, he received an email from the Port Agent providing notification that BOPC licensee Captain Kasper has resigned his membership in SFBP and SFBP B & P.
- On June 21, 2023, he attended a meeting of the Pilot Fitness Committee.

**B) Report on pilot licensing matters since the Board meeting held on May 25, 2023.**

Executive Director Garfinkle reported that since the May Board meeting, the Board renewed the license of Captains Wehr, Cvitanovic, Fawcett, and Carr.

**C) Report on Board surcharges.**

Executive Director Garfinkle reported that the SFBP wired to the Board the surcharges collected in May 2023 in the amount of \$754,455.85, as itemized as follows:

- Board Operations Surcharge: \$206,133.52
- Continuing Education Surcharge: \$ 37,381.74
- Pilot Trainee Surcharge: \$ 59,502.90
- Pilot Boat Program Surcharge: \$609,919.67

**D) Report of Pension Fiduciary.**

Executive Director Garfinkle reported that as of June 1, 2023, there are 86 pensioners.

Surcharge Rate for the Quarter	\$0.05870/gross registered ton
Rolling Look Back Period	January 2022 through December 2022
Monthly Tonnage	28,181,378
Surcharge Billing Total	\$1,643,142.83
Administrative Costs for the Month	\$2,476.10
Amount Distributed to Pension Beneficiaries	\$1,640,666.73
Total Monthly Target Rates	\$1,228,232.84
Amount Over/(Under) Target	\$414,909.99

There was an adjustment in billings due to reductions made for medical emergencies of \$11,104.35, which means the calculated billings and actual billings would differ by this amount. The last COLA increase to the pension was on April 1, 2023.

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

None to report.

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

Licensing and Training Programs Manager Wong reported the following on legislative matters:

Senate Bill 544 (Laird)

- This bill amends the Bagley-Keene Open Meeting Act to remove certain teleconference requirements to notice the remote location of members of the State body, while ensuring public access to state body meetings via audio, online platforms, or physical attendance. This bill also requires procedures for accommodating individuals with disabilities and mandates disclosure of other individuals present with a member at a remote location, as specified.
- This bill was passed by the Senate, once in the Assembly, and as of late May was referred to the Assembly Committee on Government Operations.

Licensing and Training Programs Manager Wong reported the following on contractual matters:

She reported that the California Highway Patrol (CHP) is experiencing significant turnover in their contracts staff and has assigned and reassigned BOPC contracts to new staff these past several months, with some of their staff new to state contract processing. As such, there will be delays and extra work on the BOPC's side to get CHP staff familiar with BOPC contracts and contracting issues, which will likely lead to delays in overall BOPC contract processing.

- Caltrans: General IT Support (Contract Expiration: January 31, 2023; new three-year contract to start retroactively on February 1, 2023)
  - Caltrans and BOPC signed the renewal contract for continued IT Support of the BOPC and submitted the signed contract to the CHP on June 20, 2023. CHP will finalize the contract shortly.
- SFBP—Trainee and Pilot Continuing Education Programs Support, and Surcharge Audit Support (Contract Expiration: June 30, 2023; New contract term is 5 years)
  - A new CHP contract analyst is working on providing information to the Department of General Services for approval of the non-competitive contract justification. That process is expected to take at least 3-4 months. Once that

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process is completed, then the contract will go through the regular contracting process, including final DGS contract approval. CHP estimates that this new 5-year SFBP contract could be fully executed by the end of the year.

- SFBP—Trainee and Pilot Continuing Education Program Support, and Surcharge Audit Support (Emergency) (Contract Term: July 1, 2023 to December 31, 2023)
  - Due to the length of time it will take to process a long term non-competitive contract with the San Francisco Bar Pilots, the BOPC has begun the process for a 6-month emergency contract with the SFBP. CHP has submitted an emergency contract to the BOPC and the SFBP for signature and has requested related contracting documents. This short-term emergency contract will require DGS approval. As such, there is no assurances that the emergency contract will be in place on July 1, 2023.
- California State University Maritime Academy – Trainee Selection Exam Services (Contract Expiration: TBD)
  - As reported to the Board before, Board staff have put on hold a new contract with Cal Maritime for Trainee Selection Exam services since the university has not identified staffing for the next simulator exam test component. Cal Maritime also provides a test site for the Trainee Selection Exam written component.
- State Controller’s Office – Pilot Boat Program Audit (Contract Expiration: TBD)
  - As reported to the Board before, Board staff will need to enter into a new contract for a program audit of the Pilot Boat Program as required by statutes. The State Controller’s Office has yet to assign a project manager for this audit.
- Caltrans – IT Modernization Project Support (Contract Expiration Date: June 30, 2025)
  - Board staff submitted a separate interagency agreement between the Board and Caltrans to the CHP for Caltrans support for the IT Modernization Project. CHP Contract staff are working on the new contract and drafting the agreement.
- Request for Offer – IT Modernization Project Manager (Contract Expiration Date: TBD)
  - BOPC, Caltrans and CHP Contract staff are working on a Request for Offer document to solicit proposals from state certified IT Project Manager contractors to lead the overall project planning for the IT Modernization Project. CHP Contract staff received the list of state-certified vendors from Caltrans to send the Request for Offer to, and it is expected that the Request for Offer document will

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be sent out to potential contractors in July. It is the goal to select a project manager as quickly as possible after the start of next fiscal year.

**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 December 7, 2022
- Captain Aune since March 27, 2023

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. Mitigating measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings, cancelling previously granted compensation time off request, suspending SFBP internal working rules, or calling in off-watch pilots.

There are currently 52 licensed pilots.

In May, there were 21 MRP exceptions, with the shortest rest period of 10.1 hours.

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

For the month of May, Port Agent Carlier reported normal operations for P/Vs CALIFORNIA, DRAKE, GOLDEN GATE, and PITTSBURG. P/V SAN FRANCISCO was in the shipyard from May 12, 2023, to July 14, 2023.

Port Agent Carlier reported that vessel moves for May 2023 were as follows:

- Bar Crossings: 482 moves
- Bay Moves: 151 moves
- River Moves: 53 moves
- Total Moves: 686 moves
- Gross Registered Tons (GRT): 28.2 million

He also reported that when comparing 2023 year-to-date vessel move data with the same period in 2022, total moves were up 5.4% and GRT was up 12.8%.

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**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.

President Tynan commented that the chart showing the number of ship movements in agenda item 7B is helpful. Port Agent Carlier thanked SFBP’s Controller, Ms. Jones, for her efforts with the chart.

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

**A) Report on the Pilot Evaluation Committee (PEC) meeting held on June 13, 2023.**

PEC Committee Chair Captain Robinson reported on the following:

- The PEC met on June 13, 2023, and in attendance were Committee members Captains Slack, Wehr, and Robinson. Captains Aune and Ruff were absent.
- 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 four trainees: Captains Burns, Meyer, Olmsted, and Pascucci. The trainees’ range of time in the program is from 14 months to 32 months.
- All trainees have their First-Class pilotage endorsements for unlimited tonnage on San Francisco Bay by the U.S. Coast Guard.
- Captains Burns, Olmsted, and Pascucci are in the evaluation stage of the Pilot Trainee Training Program and are handling vessels as much as possible along with the occasional observation trip to watch a licensed pilot.
- All trainees are handling in all areas and are progressing at their own rates.
- The next PEC meeting is scheduled for July 19, 2023, 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.



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- 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.

**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 on June 9, 2023, he received a report of a pilot ladder deficiency that took place on June 9, 2023, prepared by Captain Zachary Kellerman. The report stated that while embarking the M/V UOG DESPINA V, Captain Kellerman found the hull magnet was in poor condition and was not in firm contact with the hull. The report was provided to Port State Control, Sector San Francisco, as the ship was foreign flag. He noted that Port State Control, Sector San Francisco responded that since the vessel was in transit to Los Angeles, they would pass the information on to Port State Control in Los Angeles/Long Beach.

Executive Director Garfinkle responded to President Tynan that the Master does not need to sign the pilot ladder deficiency report, but the report is to put them on notice of the deficiency.

Commissioner Nyborg explained that many of these devices are magnetic and the crew would go down and place the magnet against the hull. Typically, these devices weigh about 20 pounds, and are normally also attached to a lanyard/rope ladder leading to the main deck. He recalled that a pilot from Puget Sound was hit in the head by one of these devices falling from its position. SFBP Business Director Captain McIntyre added that the injury was severe enough that the pilot had to retire. She also added that Captain Kellerman was wearing a helmet.

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**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.)**

Executive Director Garfinkle reported that there were no incidents to report.

**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 stated that these reports are from the U.S. Coast Guard via the Harbor Safety Committee meeting. He reported on a reduction in propulsion incident where a foreign flagged chemical tankship experienced a reduction in propulsion while attempting to go astern during anchoring in San Francisco. The vessel safely dropped anchor and attempted to move astern after restarting the engine. Class surveyors attended vessel and found the issue to be a drop in air pressure for the engine that caused the astern propulsion to be non-responsive. Class surveyors witnessed satisfactory operation of the engine in astern propulsion and the case was closed.

**12. Joint Pilot Boat Advisory Committee and Finance Committee (Commissioner Captain Nyborg)**

**A) Report on the Joint Pilot Boat Advisory Committee and Finance Committee meeting held on June 1, 2023.**

Commissioner Nyborg reported that Commissioner Carr was chosen to be the Chair for the Joint Committee, and he will provide the Committee report. The Committee met on June 1, 2023, to review the pilot boat statutes and regulations. SFBP and PMSA had previously reviewed the statutes and regulations, and recommended edits.

**1. Progress report on the shipyard building of the P/V GOLDEN GATE replacement.**

SFBP Business Director Captain McIntyre reported that SFBP has not accepted the new pilot vessel at of the date of the meeting. She reported that several items still need to be resolved such as the air conditioning unit and electronics. She expects to have the issues resolved by the end of the month. The new pilot vessel is scheduled to depart from Puget Sound after the Fourth of July weekend, and is expected to arrive

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on July 10, 2023. . She reported that the new pilot boat’s christening party is scheduled for September 21, 2023, after the Board meeting.

**2. Projected timeline and costs for the planning, construction and acquisition of new pilot boats, and projected surcharge disbursement schedule.**

SFBP Business Director Captain McIntyre reported that SFBP is working with Glostén and Associates’ Engineering to meet the California Air Resource Board (CARB) requirements, and still researching what kind of pilot boat to build. She reported that the new pilot boat’s christening party is scheduled for September 21, 2023, after the Board meeting.

**B) Possible recommendation from the Committee of a policy requiring a pilot boat survey of a new pilot boat by a surveyor acceptable to the Board prior to entering service. Possible Board action to approve a policy that the Board require a pilot boat survey of a new pilot boat by a surveyor acceptable to the Board prior to entering service.**

Executive Director Garfinkle reported the California Code of Regulations specify that each pilot boat must be surveyed by a Board approved surveyor. Since current Board staff have not encountered the purchase of a new pilot boat before, he requested that the Board consider adopting a policy to include surveying a new pilot boat. Board Counsel Eagan commented that the current language in the regulations is broad and his interpretation of the regulations includes the new pilot boat, therefore he doesn’t find it necessary to adopt an additional policy.

Commissioner Nyborg agreed with Board Counsel Eagan that adopting an additional policy to include the new pilot boat may not be necessary, but he is open to having a new policy.

Executive Director Garfinkle noted that the pilot boat survey is not available yet, but the Pilot Vessel Maritime Surveyor’s information is available for the Board to review and approve. He recommended that the Board approve surveyor today and that when the survey of the boat is available we can come back and find that the new pilot boat is safe and a suitable vessel for pilotage service, prior to it being used for service.

SFBP Business Director Captain McIntyre reported that a Columbia Bar Pilot boat operator, with experience on jet drive boats, will provide training to the boat operators on the operations of jet boats after delivery of the boat.

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Board members discussed the best practice and agreed to meet again before the July Board meeting, if necessary, to review the new pilot boat survey. Commissioner Nyborg requested that the minutes include that training on the new pilot boat is permitted, prior to the Board’s approval of the new pilot boat for pilotage use.

- C) Possible recommendation from the Committee to amend the pilot boat regulations contained in Title 7, California Code of Regulations, Section 236.1, and for staff to commence the rulemaking process. Possible Board action to approve amendments proposed by the Joint Pilot Boat Advisory Committee and Finance Committee to the pilot boat regulations contained in Title 7, California Code of Regulations, Section 236, and direction to staff to commence the rulemaking process.**

Executive Director Garfinkle reported that the Committee, representatives of SFBP, and industry stakeholders have met multiple times to make edits to the regulations consistent with the new statutes. He thanked all for their contribution to the creation of the language.

Commissioner Nyborg stated that he was proud of the efforts put into the draft, and expects the regulations to provide direction on the pilot boat construction processes in the future. He also commented on the significance of the surcharge being collected prior to the actual construction, as it will reduce the financing required.

**MOTION:** Commissioner Nyborg moved that the Board approve amendments proposed by the Joint Pilot Boat Advisory Committee and Finance Committee to the pilot boat regulations contained in Title 7, California Code of Regulations, Section 236, and direction for Board staff to commence the rulemaking process. Commissioner Hayes-White seconded the motion.

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

**ACTION:** The motion was approved.

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**13. Approval of Pilot Vessel Maritime Surveyor (Port Agent Carlier)**

**Consideration and approval of maritime surveyor(s), pursuant to Title 7, California Code of Regulations §219(i). Possible Board action to approve maritime surveyor(s) pursuant to Title 7, California Code of Regulations §219(i).**

Board members were presented with the resume of Paul Fredrickson, a maritime surveyor from Charles Taylor Marine Technical Services. SFBP Business Director Captain McIntyre reported that Mr. Fredrickson came highly recommended.

**MOTION:** Commissioner Nyborg moved the Board approve the maritime surveyor, Paul Fredrickson from Charles Taylor Marine Technical Services, pursuant to Title 7, California Code of Regulations §219(i). Commissioner Schmid seconded the motion.

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

**ACTION:** The motion was approved.

**14. Pilot Vessel Condition and Valuation Surveys (Port Agent Carlier)**

**Review and acceptance of Condition and Valuation Survey for the P/V GOLDEN GATE (NEW). Possible Board action to accept Condition and Valuation Survey for the Pilot Vessel P/V GOLDEN GATE, and making a finding that the vessel is safe and suitable for pilotage service.**

Port Agent Carlier reported that the Condition and Valuation Survey for the P/V GOLDEN GATE (NEW), is not yet available for the Board to review.

President Tynan called for a short recess.

**RECESS BEGAN:** 10:55 a.m.  
**RETURN TO OPEN SESSION:** 11:06 a.m.

**15. Pilot Fitness Committee (Past Board President Miller)**

**A) Report on the Pilot Fitness Committee meeting held on June 21, 2023.**

Past Board President Miller reported that the Pilot Fitness Committee met on June 21, 2023, to review comments made regarding the pilot fatigue regulations.

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**B) Possible Committee recommendations on comments received by the Board during the written comment period for the pilot fitness regulations rulemaking that ended on May 31, 2023. Possible Board action to approve or not approve amendments to proposed pilot fitness regulations in response to the public comments, and possible Board approval of new proposed regulatory amendments.**

Past Board President Miller reported that the Committee reviewed comments received by the Board during the written comment period for the pilot fitness regulations rulemaking that ended on May 31, 2023. The Committee agreed not to include the pilot trainees in the current pilot fitness regulations rulemaking, and to avoid delay to the San Jose State University Research Foundation’s final phase of the study.

Board Counsel Eagan reported that there were concerns noted about the terminology use such as “on-call” and “off-call,” which have been updated for consistency and clarity.

Port Agent Carlier reviewed the amendments and recommended several minor edits for clarity purposes.

Board Counsel Eagan commented that the edits are not changing content and are not substantial. Since the edits agreed to are not changing the outcome and are not substantial, no additional comment period is required.

Mr. Jacob thanked Board staff and the Committee for making the requested changes, and the PMSA letter requested an additional 15-day comment period, but based on the edits and explanations, he is comfortable forgoing the 15-day comment period.

**MOTION:** Vice President Schmid moved that the Board approve amendments to proposed pilot fitness regulations in response to the public comments. Commissioner Hayes-White seconded the motion.

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

NO: None.

ABSTAIN: None.

**ACTION:** The motion was approved.

Commissioner Nyborg requested clarification on the 60-day timeline after the FRMS has been published. Board Counsel Eagan clarified for Commissioner Nyborg that OAL approves regulations quarterly, and these regulations need to be approved by OAL. The Port Agent then needs to submit the FRMS to the Board within 60 days after the effective date, which is the date when the regulations are approved by OAL and have been published.

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Executive Director Garfinkle responded to SFBP Business Director Captain McIntyre that the pilot fitness regulations should become effective by the end of September.

- C) Possible Committee recommendation on the objection made by the Pacific Merchant Shipping Association on May 31, 2023, regarding the San Jose State University Research Foundation (SJSURF) completion of work contemplated in contract #15M900007 between the Board and the SJSURF for the researchers to examine the effects of work and rest periods on the performance of pilots licensed by the State. The remaining contract work includes Phase 4, a post-regulation intervention evaluation. Possible Board action to continue with the pilot fatigue study with the San Jose State University Research Foundation as contracted, to cancel or amend the contract with the San Jose State University Research Foundation, or to enter into a new contract with another researcher to conduct the post-regulation intervention evaluation, or to cancel this phase of the pilot fatigue study. (Executive Director Garfinkle)**

There was no objection.

- 16. Review and discussion of Board delegation to the Executive Director, last approved by the Board on May 28, 2020, regarding the Executive Director’s authority to consummate or amend certain Board contracts and to make staff hiring decisions, where applicable, on behalf of the Board, with reporting back to the Board upon the Executive Director’s exercising of any delegated authority. Possible Board action to approve a current delegation to the Executive Director the authority to consummate or amend certain Board contracts and to make staff hiring decisions, where applicable, on behalf of the Board, with reporting back to the Board upon the Executive Director’s exercising of any delegated authority.**

Executive Director Garfinkle reported that the Board delegation to the Executive Director was last approved by the Board on May 28, 2020, and has not been reviewed or renewed since then. He noted that the delegation was originally designed to be done annually.

Ms. Cristia-Plant reported the following reasons for the proposed edits:

- Contract amounts increase. Inflation has increased overall costs for contracts, resulting in the Board providing approval for the Executive Director to sign and execute contracts with large budgets such as the Artelia contract and the contract to hire an IT Project Manager to oversee the IT modernization project.
- She recommended that the annual review of the delegation be removed since the work is consistent and periodically reviewing the delegation would be more appropriate.

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**MOTION:** Commissioners Hayes-White moved that the Board approve the proposed delegation to the Executive Director the authority to consummate or amend certain Board contracts and to make staff hiring decisions, where applicable, on behalf of the Board, with reporting back to the Board upon the Executive Director’s exercising of any delegated authority. Vice President Schmid seconded the motion.

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

**ACTION:** The motion was approved.

Executive Director Garfinkle responded to SFBP Business Director that Board staff work on various contracts including but not limited to telephone services, CHP and SCO services, and Board staff reports major and minor details to the Board every month. There are opportunities for working with stakeholders if needed. If there are significant contract issues, Board staff will keep Board members informed.

**17. Review, discussion, and possible approval of information technology modernization project proposed by Board staff. Possible approval of information technology (IT) modernization project proposed by Board staff and possible authorization of Executive Director to contract for proposed IT modernization.**

Executive Director Garfinkle reported an IT modernization project was something he considered implementing for the past several years but due to staff turnover and increase in workload, the project has been a challenge to initiate. The IT modernization project is to improve the technology at the Board office, to manage workflow and streamline reports, and store data without the use of numerous paper files. He noted that Board staff currently employs a patchwork of programs (MS Access, MS Excel) to track pilot-related data, but current process relies heavily on paper files, which poses risks in the event of a fire or natural disasters. He commented that he naively suggested a budget augmentation to purchase software off the shelf, but soon was made aware that the California Department of Technology (CDT) had strict processes dictating how state entities approached information technology projects. This apparently is due to other state departments’ previous IT projects not meeting the stated goals of the project, and resulting in wasteful use of state funds. CDT has developed a structured process to oversee the IT projects referred to as the Project Approval Lifecycle (PAL), which identifies the business needs, defines efficiencies that may be achieved, and explores ways to streamline processes, then identify products matched to meet the identified needs.. The planning stage can take between 18 to 20 months, and includes having a subject-matter expert from the organization work with a consultant to analyze the needs and match it with appropriate software. Once the product has been identified, Board staff will have to return to the Board for the procurement of the product. He noted that it is hard to identify the overall



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cost because it's a project that may take up to five years to complete. Board staff has already submitted a successful Budget Change proposal (BCP), which has been included in the Governor's budget. The Board has been approved for \$1.4 million for the planning stage of the project, and for fiscal years 2023-2024 and 2024-2025.

Overall, the project will digitize records, streamline workload and licensing process, allow incident reviews to be searchable rather than reviewing hundreds of paper records.

Ms. Cristia-Plant reported that the IT modernization project will improve the overall efficiency of the Board, which is relevant to everyday Board staff work. The ideal solution will interact with the BOPC website, help with applicants during the Pilot Trainee Training Examination, help with license renewals, and compiles paperwork for fitness for duty forms. The project will be useful during disaster recovery purposes. Current records are mostly paper-based and can't be recovered if they're destroyed. The BCP also identified additional workload appropriate for an Associate Governmental Program Analyst (AGPA), who will assist with administrative work and is principally responsible for maintaining the software.

Commissioner Nyborg expressed concern that the software may become obsolete and wondered if the software will still be relevant years later. Executive Director Garfinkle responded that a product has not been identified yet and expects the vendor to be able to find an appropriate product and help maintain it.

Assistant Director Millsbaugh reported that his former department, Department of Parks and Recreation, had a platform designed to suit the department's needs, and that most software is cloud based via subscription which provides ongoing updates to software. Additional changes to the platform can be made, although the ongoing upgrades require the department to stay with the same vendor.

**MOTION:** Commissioner Hayes-White moved to approve the IT modernization project proposed by Board staff and authorize Executive Director Garfinkle to contract for proposed IT modernization. Vice President Schmid seconded the motion.

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

**ACTION:** The motion was approved.

Mr. Jacob thanked the Board for the discussion and noted that CDT did not specifically identify that industry stakeholders will be paying for this project. He requested that industry have the opportunity to participate and be specifically listed as stakeholders. If industry

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monies are used for the IT modernization project, industry wants the project to be successful. He commented that the IT modernization project needs to proceed, and requests that the industry be included during the planning.

Executive Director Garfinkle acknowledged PMSA’s concerns and he suggested that the Board consider having a IT Modernization Committee. He noted that any changes will need to be reviewed and approved by CDT.

President Tynan requested that forming a new committee consisting of industry members, pilots, and Board staff be placed on a future Board agenda.

**18. Report on shipping activity regionally and within the Board’s jurisdiction (Captain McIntyre, SFBP/Mike Jacob, Pacific Merchant Shipping Association)**

Mr. Jacob reported that the International Longshore and Warehouse Union contract negotiations have concluded with a tentative agreement. The ratification process will last until September. The clerk contracts are still in the process of negotiation . Once done, it will provide some stability with cargo. Peak season for cargo has passed, and the trade numbers are still low in the Bay Area.

Mr. Jacob reported on the status of Howard Terminal ballpark project, noting that Nevada voted the to create a subsidy package. The City of Oakland agreement with the A’s has not been renewed. The Army Corps of Engineers recirculating of the Environmental Impact Statement has ended. PMSA and SFBP submitted comments during the comment period. A full environmental impact report is in progress and should be done by the fall.

SFBP Business Director Captain McIntyre reported that the Port of Stockton is experiencing significant shoaling. The Army Corps of Engineers have been notified for emergency dredging. The draft had been reduced by four feet, impacting customers. The issue may cause the port to shut down or limit the traffic to reduced drafts.

Port Agent Carlier noted that the draft is normally 34 feet and is down to 28 feet in places. He recalled at one point that the draft was below 20 feet with lots of silt piled up on one side. He added that the federal government has a schedule to attend to all the ports and work their way up. The rivers are federal channels, therefore Stockton won’t do private dredging.

**19. Closed session to consider issues raised concerning the 2022 Pilot Trainee Training Program examination and, in addition, various anonymous allegations concerning alleged irregularities in the conduct of the Board’s affairs involving pilots and Board personnel. (Roma Cristia-Plant)**

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**A closed session is authorized under the Open Meeting Act, Government Code section 11126, subdivisions (c)(1) and (e).**

Captain Todd Johnston called in and was concerned with how long it was taking to finalize the list, and would like the issues to be resolved quickly, instead of making pilot trainee candidates wait so long. He reported that he had spent lots of time studying, and \$30,000 to prepare for the exam and traveled for the 2022 Pilot Trainee Training Examination. He added that 3-4 other candidates on the list are planning to take the pilot trainee exams for Puget Sound.

Commissioner Nyborg acknowledged Captain Johnston's frustrations and the Board also wants to resolve the issues quickly.

**Closed Session Began: 12:31 p.m.**  
**Open Session Resumed: 1:25 p.m.**

President Tynan reported that the Board still is unable to discuss the closed session discussions, but she is planning make a motion to adopt the 2022 Pilot Trainee Training Examination Ranked List in July, and Commissioners Schmid, Hayes-White, and Nyborg are in support of this.

**20. Pilot Trainee Training Program Selection Examination (Executive Director Garfinkle)**

**Presentation of the 2022 ranked candidate eligibility list of those candidates who were successful in passing the 2022 Pilot Trainee Training Program selection examination. Board action to accept the 2022 ranked candidate eligibility list of those candidates who were successful in passing the 2022 Pilot Trainee Training Program selection examination.**

Executive Director Garfinkle reported that since the investigation is still ongoing, he recommended that this agenda item be postponed to the July Board meeting.

**21. Consideration of possible Board action in response to the matters discussed in item 19. (Executive Director Garfinkle and Board Counsel Eagan)**

Executive Director Garfinkle reported that this agenda item is a vestige from the May Board meeting and was left on the agenda inadvertently.

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**22. Public comment on matters not on the agenda. (President Tynan)**

Executive Director Garfinkle responded to Vice President Schmid that he needs to consult with Board Counsel Eagan regarding SFBP Business Director Captain McIntyre’s concern with what was posted/not posted to the website.

Board Counsel Eagan commented that a closer sensitivity to the content may be needed. President Tynan requested that this item be on the next agenda for everyone to think about the topic, and legal advice may be required.

**23. Proposals for the next Board meeting agenda. (President Tynan)**

President Tynan requested that a discussion of the website be on the agenda, with a review of information and documents that may be confidential or have identifying information; processes for posting; and defining redaction of information.

SFBP Business Director Captain McIntyre requested that confidential information from vendors in contracts be included, such as confidential information regarding the pilot boat. Vice President Schmid requested that Board be kept apprised of managing IT project with stakeholders.

**24. Adjournment.**

**MOTION:** Commissioner Nyborg moved to adjourn the meeting. Commissioner Hayes-White seconded the motion.

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

**ACTION:** The motion was approved, and the meeting was adjourned at 1:36 a.m.

Submitted by:

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Allen Garfinkle  
Executive Director