

<p>Meeting Date:</p> <p>January 26, 2023</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>BOARD MEETING MINUTES</p>	<p>Page 1 of 17</p>
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Board Members Present

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

Board Members Absent

Vacant, Wet Cargo Industry Member
Vacant, Dry Cargo Industry Member

Board Staff Present (in person and by phone)

Allen Garfinkle, Executive Director
Roma Cristia-Plant, Acting Assistant Director (by phone)
Dennis Eagan, Board Counsel
Alethea Wong, Staff Services Manager I
Charles Louie, Administrative Assistant II

Identified Public Present (in person and 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 (by phone); Captain James Barton; Captain Spencer Snapp; Noah Snapp; Lisa Vizzini; Quentin Kopp, Esq.; and Marc Libarle, Esq.

OPEN MEETING AGENDA

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

President Hayes-White called the meeting to order at 9:31 a.m. President Hayes-White and Executive Director Garfinkle read meeting instructions. Administrative Assistant II Louie called the roll and confirmed a quorum.

2. Board Officer Elections (Executive Director Garfinkle and Board Counsel Eagan)

A) Explanation of rules and customs applicable to Board officer elections.

Board Counsel Eagan explained the rules and customs applicable to Board officer elections.

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B) Board members to elect a President of the Board. Board action to elect a President of the Board.

Item B was discussed with Item C.

C) Board members to elect a Vice President of the Board, if determined necessary. Board action to elect a Vice President of the Board.

MOTION: Vice President Schmidt moved to defer electing a President and a Vice President of the Board to the next Board meeting. Commissioner Carr seconded the motion.

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

NO: None

ABSTAIN: None

ACTION: The motion was approved.

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

Quentin Kopp, Esq., stated that he wanted to notify the Board that he represents clients that were affected by conduct of the Board that he alleged violated state law related to the recent Pilot Trainee Training Program Selection Exam. He stated that he will submit information to the Board within the month.

Mike Jacob gave a brief update regarding the litigation impacting the Howard Terminal Project and proposed stadium. He thanked the Board for their earlier letter to the Planning Commission expressing concerns about the project. He stated a recent decision by the Superior Court involving the project was appealed, the appeal briefings have concluded, and a hearing by the Court of Appeal is scheduled for February 7, 2023, at 9:30 a.m. He stated that he would provide an update on the court proceeding at the February Board meeting.

**4. Review and approval of Board meeting minutes (President)
Board action to approve the minutes from the Board meeting held on December 8, 2022.**

Board Counsel Eagan provided non-substantive edits to the draft minutes. There was no further discussion of the draft minutes.

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MOTION: Commissioner Carr moved to approve the draft minutes from meeting held on December 8, 2022, as edited. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

5. President Announcements and Activities (President)

President Hayes-White stated Agenda Item #20 would be discussed before Agenda Item #15. She stated that she selected Commissioner Tynan and herself to review allegations of Board improprieties contained in an anonymous letter sent to specific Board members and Board staff related to the recent Pilot Trainee Training Program Selection exam, and also included mention of other alleged non-exam improprieties. She stated that a subsequent letter was also received by specific Board members and Board staff from an applicant to the Pilot Trainee Training Program Selection exam that included many of the same allegations. She stated that this letter would be discussed by the Board at next month's Board meeting.

6. Board Member Announcements and Activities (Board Members)

Vice President Schmid stated that she received a letter from a Captain Davis, an applicant to the 2022 Pilot Trainee Training Program Selection Exam, that he was in receipt of an anonymous correspondence that alleged unprofessionalism and bias in the exam. President Hayes-White noted that she was also in receipt of the same letter from Captain Davis.

7. Directors' Report (Executive Director Garfinkle)

A) Correspondence and activities since the Board meeting held on December 8, 2022.

Executive Director Garfinkle reported on the following:

- On December 12, 2022, he exchanged emails with the administration at Port Revel in France, confirming bookings for three classes in 2023, two in June 2023 and one in September 2023, to provide manned model training to a total of 22 Board-licensees.
- On December 14, 2022, he received notice from the SFBP that they had fully collected the Pilot Vessel Maintenance Surcharge and ceased collection.
- On December 21, 2022, he received a copy of the PMSA *West Coast Trade Report* for December 2022.
- On December 22, 2022, he received an appointment announcement from the Governor's Office re-appointing Commissioner Hayes-White and Commissioner Carr to their second term on the Board. He congratulated them on their re-appointments.

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- On December 28, 2022, he sent the Port Agent the first quarter surcharge rates for 2023.
- On January 5, 2023, staff sent an anonymous retirement survey to all Board-licensees.
- On January 5, 2023, staff also was notified of a CalSTA Leadership Summit to be held in Sacramento on February 1, 2023, and that the summit involved top leaders of all CalSTA boards and departments.
- On January 11, 2023, he attended the start of the Legal Aspects of Piloting module of the Board’s Combination Course. This training module was offered at Pier 9 and included licensees from two Combination Course training classes held last fall at California State University Maritime Academy (Cal Maritime). He noted that this training module was rescheduled to this date to accommodate the instructor.
- On January 12, 2023, he attended the January 2023 Harbor Safety Committee meeting in Richmond, CA.
- On January 12, 2023, he also attended a retirement gathering for Captain Lynn Korwatch, who is retiring as Executive Director of the San Francisco Marine Exchange.
- On January 18, 2023, he attended the start of the Pilot Evaluation Committee meeting.
- On January 23, 2023, he attended meetings of the Finance and Pilot Power Committees.
- Lastly, he and Acting Assistant Director Cristia-Plant attended various meetings throughout the month to discuss a Board Information Technology Modernization Project.

B) Report on pilot licensing matters since the Board meeting held on December 8, 2022.

Since the December Board meeting, the Board has issued license renewals to Captains Ridens, Robinson, Teague, Carlier, Greger, Pullin, Ruff, Kellerman, Rogers, Stevens, and Benedict.

C) Report on Board surcharges.

Board surcharges collected for the Month of December 2022, were \$309,192.22, comprising the following surcharge amounts:

- | | |
|--|--------------|
| • Board Operations Surcharge | \$188,416.31 |
| • Pilot Continuing Education Surcharge | \$ 35,522.32 |
| • Pilot Trainee Surcharge | \$ 85,253.59 |

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D) Report of Pension Fiduciary.

As of December 1, 2022, there were 85 beneficiaries in the San Francisco Bar Pilot Pension Plan (Pension Plan). He reported the following for the December 2022 monthly pension allocation that was made on January 6, 2023:

Surcharge Rate for the Quarter	\$0.05800/gross registered ton
Rolling Look Back Period	July 2021 through June 2022
Monthly Tonnage	21,933,304
Surcharge Billing Total	\$1,270,777.02
Administrative Costs for the Month	(\$2,193.10)
Amount Distributed to Pension Beneficiaries	\$1,268,583.92
Total Monthly Target Rates	\$1,155,135.33
Amount Over/(Under) Target	\$115,641.70

He reported the last cost of living adjustment (COLA) increase to pension benefits was April 1, 2020, and that Harbors and Navigation Code section 1167 mandates that the Board review the pension benefits the earlier of every three years or whenever there is a 12% increase in the Consumer Price Index (CPI). He noted that Board staff last checked the CPI data on October 11, 2022, and determined that there was a 11.8027% CPI increase from December 2020, to August 2022. He stated that a Pension Committee meeting will be scheduled in February to review the change in CPI, and make a recommendation to the Board for the three-year required review of benefits.

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

Nothing to report.

F) Report on legislative activities and contractual matters.

Staff Services Manager I Wong stated that there was nothing to report on legislative activities. She reported on contractual matters as follows:

- The contract with the California Department of Transportation (Caltrans) expires on January 31, 2023. Board staff are still waiting on Caltrans to provide budget information for a new 3-year contract.
- Board staff received a copy of the executed agreement with the State Controller's Office to process expedited warrants.

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- A contract with Citibank to pay for services from the CalTravelStore should the Board utilize their travel services has been executed by the Board. The Department of General Services (DGS) has not reviewed and approved the contract yet.
- The DGS insurance risk staff are assisting the Board’s California Highway Patrol contract analyst to obtain adequate insurance documentation from Artelia for the proposed non-competitive bid contract to provide manned model services. The contract will be sent to DGS for final legal review once the contract documentation is complete.
- The contract with the University of California San Francisco Campus for medical services is being amended to add two additional examining physicians. CHP has sent the amendment to DGS for review.
- The existing contract with the San Francisco Bar Pilots for trainee program assistance, assistance with pilot and trainee travel to manned model training, and other general Board support expires on June 30, 2023. On January 20, 2023, Board staff met with the SFBP’s Business Director to discuss the contract renewal and new contract budget information.
- The contract with the San Jose State University Research Foundation will need to be extended and contract funding augmented to allow the researchers to perform the final study task, which is to assess the pilot fatigue mitigation regulations after implementation of the regulations. The current contract expires on June 30, 2023.

Vice President Schmid inquired about the original completion date for SJSURF work. Acting Assistant Director Cristia-Plant responded that the contract was amended twice since it was entered into in 2016, and confirmed that the contract expires on June 30, 2023.

8. 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 Greger since January 9, 2023

Port Agent Carlier reported that the SFBP continually monitors the dispatch list for possible 12-hour Minimum Rest Period (MRP) exceptions. If the potential MRP is likely to result in a rest period of less than 10 hours, mitigating measures are employed. These measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings, cancelling previously granted compensating time off requests, suspending internal working rules, or calling in off-watch pilots.

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He reported that the SFBP currently has 50 licensed pilots, December had 6 MRPs, and the shortest rest period was 10.7 hours.

B) Monthly report on SFBP ship piloting business activity.

Port Agent Carlier reported the following pilot vessel information:

- **PV CALIFORNIA:**
Returned from drydock on December 22, 2023. Estimated return to station rotation early February 2023.
- **PV PITTSBURG:**
Vessel was shut down due to crew illness from December 19, 2022, to December 26, 2022.
- All other pilot boat operations are normal.

Port Agent Carlier reported that vessel moves for December 2022 were as follows:

- Bar Crossings: 406 Moves
- Bay Moves: 135 Moves
- River Moves: 39 Moves
- Total Moves: 580 Moves
- Gross Registered Tons (GRT): 21.9 million

When comparing 2022 vessel move data with the same period in 2021, total moves were down 2.5% and GRT is down 1.0%.

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 session discussion of this item.

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9. Pilot Evaluation Committee (Captain Robinson)

A) Report on the Pilot Evaluation Committee (PEC) meeting held on January 18, 2023.

- Committee Chair Captain Robinson reported that the Pilot Evaluation Committee met on January 18, 2023. The members present were Captains Aune, Ruff, Slack, Wehr, and Robinson. Executive Director Garfinkle joined the PEC during the open session.
- The six active trainees include Burns, Meyer, Olmsted, Pascucci, Sappington, and Snapp. The trainee's range of time in the program span from 9 months to 22 months.
- Trainees Olmsted, Sappington, and Snapp have a First-Class Pilotage endorsement for unlimited tonnage for the San Francisco Bay issued by the U.S Coast Guard on their federal license. Olmsted, Sappington, and Snapp are handling all areas. Trainees Sappington and Snapp are in the evaluation stage of training.
- Trainees Burns, Meyer, and Pascucci are acquiring route trips and handling or part handling vessels in all areas.
- Trainee Olmsted remains on probation due to a lack of consistency in various aspects of his piloting and he continues to receive coaching by the licensed pilot to keep the ship safe.
- In closed session, all trainees were individually interviewed and counseled on their progress in the training program. Most of the trainees are meeting the recommended benchmarks and are progressing at their own rates.
- Captain Robison noted that the PEC supports increasing the monthly training stipend amount, adding that pilot trainees experience high living costs in the Bay Area, which has been exacerbated due to recent inflation.
- The next PEC meeting is scheduled for February 15, 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.

No action at this time.

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.

Committee Chair Captain Robinson reported the following:

- Captain Snapp entered the Pilot Trainee Training Program on March 15, 2021.

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- Since that time, Captain Snapp completed a total of 699 training jobs with the San Francisco Bar Pilots, of which 138 were as an observer and 561 were handled or partially handled in which Captain Snapp directed the navigation and control of the vessel.
- Captain Snapp completed 129 training jobs with PEC members, 24 of which were in the previous 90 days.
- As required by regulation, Captain Snapp maintained an average PEC evaluation score of 4.0 or greater in each of the last three months, resulting in a three-month average score of 4.21.
- The PEC determined that Captain Snapp has successfully completed the Pilot Trainee Training Program, and recommended that the Board issue Captain Snapp a Certificate of Completion from the program, effective January 26, 2023.

There was no discussion by the Board or the public.

MOTION: Commissioner Nyborg moved to grant Captain Snapp a Pilot Trainee Training Program Certificate of Completion. Vice President Schmid seconded the motion.

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

ACTION: The motion was approved.

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

Executive Director Garfinkle reported that the Board received an application for an initial license from Captain Snapp. He confirmed that the Captain Snapp meets all the Board's requirements for licensure. He recommended to the Board, that since there are fewer than 60 licenses outstanding, a license be issued to Captain Snapp.

There was no discussion by the Board or the public.

MOTION: Vice President Schmid moved to issue a pilot license to Captain Snapp. Commissioner Carr seconded the motion.

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

ABSTAIN: None

ACTION: The motion was approved.

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President Hayes-White announced that the Board would go into recess to issue the oath to Captain Snapp.

RECESS BEGAN: 10:10 a.m.

OPEN MEETING RESUMED: 10:17 a.m.

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

Executive Director Garfinkle stated that there were no reports of safety standard violations since the last Board meeting.

**11. 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 stated that there were no incidents reported since the last Board meeting.

12. 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 he is reporting only on significant port safety or security cases where a Board-licensee was involved as reported in a report issued by the San Francisco Harbor Safety Committee. He noted that the San Francisco Harbor Safety Statistics report for December 2022 reflected two loss of propulsion events in November and one in December, and none were attributable to fuel switching.

13. Pilot Power Committee (Commissioner Carr)

A) Report on the Pilot Power Committee meeting held on January 23, 2023.

Committee Chair Captain Carr noted that the Pilot Power Committee met on January 23, 2023, and discussed the results of the Pilot Retirement Survey that was conducted earlier in the month, reviewed the adequacy of the current number of pilots and pilots trainees, and discussed the Pilot Trainee Training Program monthly stipend amount. He reported that pilot retirements in the near term are dropping for the first time in the last decade.

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He stated that the Committee would meet again when the California Code of Regulations section 237(d) data are available from Board-licensees.

B) Assessment of the adequacy in the current number of pilots and pilot trainees, including reviewing the most recent data required in Title 7, California Code of Regulations, §237(d). Possible Board action regarding contracting with one or more pilot trainees for participation in the Pilot Trainee Training Program.

Committee Chair Captain Carr noted that Captain Snapp just graduated, and one other trainee is in the evaluation stage. The Committee discussed the proper licensing number moving forward with two new trainees into the program. He stated the Committee discussed the current number of 50 pilots and whether the current level of pilots is sufficient. He presented data he developed using publicly available information and data from the past section 237(d) reports, which compared the number of licensees, workload, and minimum rest period (MRP) exceptions. He commented that the MRP exceptions are a useful metric to gauge pilot staffing levels. He stated the Committee voted to recommend to the Board to add two additional trainees to the Pilot Trainee Training Program.

Commissioner Nyborg reminded the Board that MRP exceptions are still triggered at 12 hours, but now there is a hard stop at 10 hours. Commissioner Tynan inquired if manning levels are consistent with industry forecasts. Committee Chair Captain Carr responded that there is no improvement in cargo volumes projected for 2023-2024.

Acting Assistant Director Cristia-Plant noted that the Board set the number of licenses for safety on the Bay at 60 in 2004. Commissioner Carr stated that the number of pilots required would be discussed at the next tariff rate hearing, prompting Executive Garfinkle to note that the Board has a very narrow role at a rate hearing, and he suggested that the proper number of licenses should be determined by the Board prior to entering a rate hearing, as the number of licensees is still within the Board's statutory mandate and the number of projected outstanding Board licenses will be a function of the new rate setting process considered by the administrative law judge

MOTION: Commissioner Carr moved that the Board contract with two candidates to participate in the Pilot Trainee Training Program following approval of the candidate list from the 2022 Pilot Trainee Training Program Selection Exam list. Vice President Schmid seconded the motion.

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

ACTION: The motion was approved

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- C) Discussion and recommendation on the adequacy of the current Pilot Trainee Training Program monthly stipend amount, its impact on attracting candidates to and holding trainees in the program, and the potential to increase the stipend amount from \$7,000 a month to up to \$8,000 a month. Possible recommendation to the Board regarding increasing the Pilot Trainee Training Program monthly stipend amount from \$7,000 a month to up to \$8,000 a month in order to continue to attract candidates to and hold trainees in the program.**

Committee Chair Captain Carr reported that the Committee discussed the trainee monthly stipend amount, and noted the committee agreed the amount should be on par with the stipend paid to trainees in Washington State in order to attract and retain qualified trainees. He stated that the Pilot Power Committee supports a raise to the monthly trainee stipend.

Executive Garfinkle noted that the Pilot Power Committee’s recommendation would be policy based, while the Finance Committee, who also considered the stipend amount issue would be financial in nature and include a consideration of any budget constraints.

14. Finance Committee (Commissioner Nyborg)

- A) Report on the Finance Committee meeting held on January 23, 2023.**

Committee Chair Captain Nyborg stated that the Committee met on January 23, 2023, to discuss the trainee stipend amount.

- B) Discussion and recommendation on the adequacy of the current Pilot Trainee Training Program monthly stipend amount, and the potential to increase the stipend amount from \$7,000 a month to up to \$8,000 a month within available budgetary resources. Possible Board action regarding increasing the Pilot Trainee Training Program monthly stipend amount from \$7,000 a month to up to \$8,000 a month within available budgetary resources.**

Committee Chair Captain Nyborg reported that the Finance Committee discussed the trainee stipend issue at length. He explained that the Committee discussed and approved an increase in stipend amount from \$7,000/month to \$8,000/month to cover the higher cost of living in the San Francisco Bay Area, and that the Committee determined that there is adequate budget authority to cover such an increase but for only up to 8 trainees in the program at any one time. He noted that the program currently has five trainees and is not projected to increase over eight in the near term.

Executive Garfinkle confirmed for President Hayes-White, that the Board does have the budgetary authority to fund the increase because the program now has fewer than the

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maximum of 10 trainees funded in the current trainee budget.

Committee Chair Captain Nyborg clarified for Ms. Dougherty that the Committee recommended the stipend increase be effective February 1, 2023.

MOTION: Commissioner Tynan moved to increase the Pilot Trainee Training Program monthly stipend amount from \$7,000/month to \$8,000/month, effective February 1, 2023. Commissioner Schmid seconded the motion.

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

ACTION: The motion was approved.

President Hayes-White announced the Board would go into Closed Session to consider Agenda item 20.

CLOSED SESSION BEGAN: 10:49 a.m.

OPEN SESSION RESUMED: 12:11 p.m.

20. Closed session to consider issues raised concerning the 2022 Pilot Trainee Training Program examination. (Board Counsel Eagan) A closed session is authorized under the Open Meeting Act, Government Code section 11126, subdivisions (c)(1) and (e).

Board Counsel Eagan reported that in closed session the Board discussed engaging the Employment Administrative Mandate (EAM) Section of the California Department of Justice to investigate allegations made concerning the 2022 Pilot Trainee Training Program Selection Exam. He reported that in closed session, President Hayes-White moved to engage the EAM Section of the Department of Justice, the motion was seconded by Commissioner Tynan, and that the vote was unanimous.

15. 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 Garfinkle recommended to defer item #15 to the next Board meeting. Commissioner Carr reminded the board the pilot power committee has made a recommendation to contact two candidates to join the training program as there is a present need to add additional trainees

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MOTION: Commissioner Tynan moved that the Board defer action on the 2022 ranked candidate eligibility list. Vice President Schmid seconded the motion.

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

ACTION: The motion was approved.

16. Proposed Board Rulemaking Calendar for 2022 (Executive Director Garfinkle)

Discussion of draft 2023 Board Rulemaking Calendar for submission to the Office of Administrative Law. Possible Board action to accept the draft 2023 Board Rulemaking Calendar in compliance with Government Code Section 11017.6, and direction to Board staff to submit the 2021 Board Rulemaking Calendar to the Office of Administrative Law.

Executive Garfinkle reported that the Office of Administrative Law (OAL) annually requests a proposed rulemaking calendar from state entities, and that OAL uses this information to plan out their rulemaking activities for the year. He noted that state entities are not held to the activities and dates listed. He then discussed the Board’s projected regulations scheduled to be completed this year, which include regulations addressing the Pilot Boat Program, pilotage tariff determinations and procedures, and pilot fatigue mitigation.

MOTION: Commissioner Nyborg moved that the Board accept the draft 2023 Board Rulemaking Calendar in compliance with Government Code Section 11017.6, and direct the Board staff to submit the 2023 Board Rulemaking Calendar to the Office of Administrative Law. Commissioner Carr seconded the motion.

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

ABSTAIN: None.

ACTION: The motion was approved.

17. Board discussion on the newly created Pilot Boat Program for new vessels. Possible Board determination of which committees should oversee the program and the surcharge, as well as a discussion of the regulations that may be necessary, protocols necessary to disburse the funds and track and audit the expenditures, and proper record keeping. (Commissioner Carr/Executive Director Garfinkle)

Commissioner Carr inquired if Pilot Boat Advisory Committee should be reviewing information on new pilot boats. Executive Garfinkle recommended that the Pilot Boat

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Advisory Committee could review the technical issues related to pilot boats, and the Finance Committee would consider the funding.

Executive Director Garfinkle then described the historical pilot boat approval and funding process, which involved a request for preliminary approval from the SFBP to install boat life extending capital improvements or the purchase of a new boat, and the Board then granting a preliminary approval to the SFBP to proceed with pilot boat project. He noted that after the preliminary approval, he the SFBP would then secure financing for the project, build/improve the boat, and return to the Board for final approval once all of the costs were known. He stated that the Board would then establish a surcharge to repay the SFBP for the costs of the project, with the surcharges collected and disbursed by SFBP outside the State Treasury.

He further stated that current statutes now require that pilot boat surcharges are now to be held in State Treasury as of January 1, 2023, that the Board's budget was increased by \$2.5 million this fiscal year, and proposed to be increased next fiscal year by \$5 million, and for several years thereafter, ending in 2036. He noted that the new legislation will bring increased Board oversight responsibility, particularly since the money will be held in the State Treasury.

Acting Assistant Director Cristia-Plant clarified that the State Controller's Office has confirmed that the new legislation requires a program audit, which is different from the attestation audit currently being conducted by the Board for other surcharges. Executive Director Garfinkle stated that he is unsure how disbursements will proceed with Board approval, and how the Board will determine the surcharge money is being properly disbursed. He stated that Board staff do not have the expertise to review pilot boat invoices, but perhaps the Pilot Boat Advisory Committee can provide such expertise. He commented that other expenses that could be funded by the program could include costs for surveyors, boat design work, and travel costs for SFBP or others to monitor the construction process.

Commissioner Carr suggested maybe joint meetings with the Pilot Boat Advisory Committee and the Finance Committee would be an efficient way to conduct business. Executive Garfinkle stated that joint meetings of the two committees may clarify what regulations are warranted and flesh out what the Board will need to see as documentation from the SFBP.

Mr. Jacob thanked Board staff for their interest in having this discussion. He noted that the statutory language was carefully crafted to ensure that Pilot Boat Surcharge monies would be disbursed swiftly, and that rulemaking will be critical to this endeavor. He added that he felt the existing pilot boat regulatory framework is a good starting point from which to update regulations, that stakeholders have built up a lot of trust over the years from prior pilot boat projects, and the past pilot boat approval and funding process has worked well.

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18. Report on shipping activity regionally and within the Board’s jurisdiction (Captain McIntyre, SFBP/Mike Jacob, PMSA)

Captain McIntyre stated that 2022 was worse than 2021 or 2020. She noted Propeller Club statistics that show more containers moved on the East Coast than West Coast. She added that it was not an optimistic forecast in 2023, and cited problems with the International Longshore and Warehouse Union contract, inflation, war in Ukraine, and a possible looming recession.

Mr. Jacob added that historical shipping statistics are dire, and noted that over the past 18 months east and gulf coast ports have outperformed west coast ports. He stated that in 2022, west coast ports were down 27%, and that freight volumes in Savannah and New Jersey are growing very fast. He stated the long-term outlook is not good for the West Coast, as other states are investing directly in their port infrastructure to attract more cargo, while California appears to be actively discouraging growth. He also noted that the Southern California Air Quality Management District is considering a levy of a \$100 air emission fee per container that may impact discretionary cargo shipping decisions, and that we can expect any recovery in freight volume to be seen in Los Angeles/Long Beach before it comes to Oakland.

19. Board discussion on setting priorities for 2023. With several pending regulation proposals and issues before the Board, an opportunity to discuss, plan and prioritize these items for completion in 2023. (Executive Director Garfinkle)

Executive Director Garfinkle reached out to Board members for their thought on priorities, noting that he received responses to an email query from Commissioners Carr and Nyborg. He noted that these two Board Commissioners agreed that regulations related to pilot fatigue mitigation, the pilot boat program and tariffs are high priorities for the Board in 2023.

Board Counsel Eagan commented fatigue regulations are being drafted and should be finalized soon.

The Board members agreed to defer discussion of this item to the February meeting.

20. Closed session to consider issues raised concerning the 2022 Pilot Trainee Training Program examination. (Board Counsel Eagan)

Closed session was discussed prior to agenda item #15.

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21. Public comment on matters not on the agenda. (President)

In response to a question by Acting Assistant Director Cristia-Plant regarding the deferral of the election of Board officers to the February meeting, Board Counsel Eagan opined that President Hayes-White can continue to sign licenses until an officer election has been conducted at next month's Board meeting.

22. Proposals for the next Board meeting agenda. (President)

Election for President and Vice President will be placed on the calendar for February, along with the approval of the final 2022 Trainee Program Selection Exam candidate list. Acting Assistant Director Cristia-Plant reminded Board members that the Executive Director Performance review is typically completed in February and offered to send the Performance review forms to the Commissioners. Commissioner Nyborg volunteered to aggregate the responses from the Performance Review, and suggested that the review should be conducted in March instead of February to give him sufficient time to aggregate reviews by Board members.

23. Adjournment.

President Hayes-White adjourned the meeting at 12:51 p.m.

Submitted by:



Allen Garfinkle
Executive Director