

<p>Meeting Date:</p> <p>November 2, 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

Karen Tynan, President, Public Member
Jennifer Ferrera Schmid, Vice President, Public Member
Captain Robert Carr, Pilot Member
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 Lynn Korwatch, Dry Cargo Industry Member
Vacant, Wet 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
Charles Louie, Administrative Assistant II
Roma Cristia-Plant, Deputy Secretary, Administration and Audits, California State Transportation Agency, on loan to the Board (by phone)

Identified Public Present (in person and by phone)

Toks Omishakin, Agency Secretary, California State Transportation Agency (CalSTA); Tamie McGowen (CalSTA); 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; Kevin Baldwin, San Francisco Bar Pilots General Counsel; Rex Clack, esq.; Captain John Meyer; Lindsey Meyer; Robert Breddock; Kevin Wood; Dana Wood.

OPEN MEETING AGENDA

OPEN MEETING

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

President Tynan called the meeting to order at 9:30 a.m. Administrative Assistant II Louie called the roll and confirmed a quorum.

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

Toks Omishakin, Secretary of Transportation for the State of California (CalSTA), thanked the Board and staff for a very warm welcome and acknowledged the important role of the Board. He highlighted the Governor’s Executive Order 19-21 to support solutions addressing California’s supply chain issues, as well as \$1.2B awarded in Port and Freight Infrastructure Program grants. He also spoke about efforts to advance CalSTA’s “Core Four” priorities: equity, climate action, safety, and economic prosperity.

Due to a scheduling conflict, Mr. Jacob presented his report for agenda Item 17. He thanked Board staff for their work on the fatigue regulations and reported that there were no changes in the market from what was reported in the PMSA West Coast Trade Report. He did note some bounce back in trade volume due to lower freight rates. In addition, he thanked the Board for their patience for the delay in filling the dry cargo seat and thanked the Governor for appointing Commissioner Korwatch to the Board.

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

Board action to approve the minutes from the Board meeting held on September 21, 2023.

Board members were presented with draft minutes from the Board meeting held on September 21, 2023.

MOTION: Commissioner Nyborg moved to approve the draft minutes of the meeting held on September 21, 2023. Commissioner Hayes-White seconded the motion.

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

NO: None.

ABSTAIN: Schmid.

ACTION: The motion was approved.

4. President Announcements and Activities (President Tynan)

None.

5. Board Member Announcements and Activities (Board Members)

Commissioner Hayes-White stated she attended the christening of the new Pilot Vessel Golden Gate. She noted that Carl Nolte wrote an article highlighting the event. President Tynan recognized Commissioner Hayes-White’s service to the late Senator Diane

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Feinstein. Commissioner Hayes-White said it has been an honor and privilege and added that she will be supporting Senator Butler in the interim.

Commissioner Carr reported the International Maritime Pilot Association, which informs the International Maritime Organization on policy and safety considerations, ran an annual worldwide survey on pilot ladder safety that should be available soon.

6. Directors' Report (Executive Director Garfinkle/Assistant Director Millspaugh)

A) Correspondence and activities since the Board meeting held on September 21, 2023.

- On September 26, 2023, Board staff received a press release from PMSA naming Mike Jacob as the next President of PMSA. Executive Director Garfinkle congratulated Mr. Jacob.
- On September 27, 2023, Board staff received a copy of PMSA's West Coast Trade Report for September.
- Also on September 27, 2023, Captain Lam, USCG Captain of the Port, extended an invitation to board staff to join the Coast Guard on board a cutter to participate in Fleet Week.
- On September 29, 2023, he sent the Port Agent the mill rate letter for the fourth quarter 2023.
- Also on September 29, 2023, he attended a retirement party for Veronica Boe at CMA. Executive Director Garfinkle acknowledged that, as the long-time director of the Continuing Education program at CMA, Ms. Boe made sure our classes and exams were supported to the fullest and always went the extra mile on our behalf. She will be missed.
- On October 5, 2023, he and Assistant Director Millspaugh attended a leadership seminar in Sacramento.
- On October 12, 2023, Board staff received notice that Governor Newsom had appointed Captain Lynn Korwatch to the Board. Welcome Captain Korwatch.
- On October 12, 2023, he attended the christening of the P/V GOLDEN GATE at Pier 9.
- On October 13, 2023, he attended an entrance conference for the 2022 surcharge audit with the State Controller's staff.
- On October 15, 2023, the San Francisco Chronicle's *Native Son* column, authored by Carl Nolte, highlighted the christening of the P/V GOLDEN GATE.
- On October 18, 2023, he attended the start of the Pilot Evaluation Committee meeting.
- On October 23, 2023, he joined the Combination Course class at CMA for a short introduction. He thanked Captain McIntyre for her assistance in getting the new

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instructor off on the right foot.

- On October 24, 2023, he attended a meeting of the Pilot Power Committee.
- On October 27, 2023, Board staff received a copy of PMSA’s West Coast Trade Report for October 2023.
- On October 30, 2023, Captain McIntyre notified Board staff that the (old) P/V Golden Gate was listed for sale.

B) Report on pilot licensing matters since the Board meeting held on September 21, 2023.

Since the September Board meeting, the Board has not issued any license renewals.

C) Report on Board surcharges.

Board surcharges collected for the Month of September 2023, were \$797,279.09 comprising the following surcharge amounts:

- Operations Surcharge \$181,299.15
- Pilot Training Surcharge \$ 29,973.21
- Trainee Surcharge \$ 41,770.44
- Pilot Boat Surcharge \$544,236.29

D) Report of Pension Fiduciary.

As of October 1, 2023, there were 84 pensioners.

Surcharge Rate for the Quarter	\$0.05781/gross registered ton
Rolling Look Back Period	April 2022 to March 2023
Monthly Tonnage for September	29,390,566
Surcharge Billing Total	\$1,699,068.66
Administrative Costs for the Month	\$5,176.85
Amount Distributed to Pension Beneficiaries	\$1,693,891.81
Total Monthly Targe Rates	\$1,228,232.84
Amount Over/(Under) Target	\$470,835.82

The last COLA increase to the pension was April 1, 2023.

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

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Nothing to report.

F) Report on legislative activities and contractual matters.

Assistant Director Matthew Millsbaugh reported the following legislative activities and contractual matters:

Legislative Report:

SB 544: Was passed by the legislature and subsequently signed by the Governor on September 23, 2023.

The law revises and repeals, until January 1, 2026, certain teleconference requirements under the Bagley-Keene Open Meeting Act (Bagley-Keene), which requires all meetings of a state body be open and public. The law provides, in addition to the authorization to hold a meeting by teleconference, a state body may hold an open or closed meeting by teleconference, provided the meeting complies with specified requirements including majority of the members of the state body shall be physically present at the same teleconference location, a remote location is not required to be accessible to the public, the notice and agenda shall not disclose information regarding a remote location, and if a member of the state body attends the meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or older are present in the room at the remote location.

Contracts Report:

SFBP—Trainee and Pilot Continuing Education Programs Support, and Surcharge Audit Support (23M900001)

Contract Expiration: June 30, 2023; New contract term is 5 years

The Department of General Services (DGS) continues to review the Non-Competitively Bid (NCB) Justification. BOPC has provided extensive information to DGS regarding the agreement and has met with DGS regarding the agreement. Pending additional information to be submitted to DGS shortly. DGS has expressed that they expect they will provide an update on the status of their review soon. Once the justification process is completed, Board staff may go through the regular contracting process.

SFBP- Service Agreement – Continuing Education Travel Support (23M900005)

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The service agreement was approved by both parties and may be used to provide reimbursement of the travel costs related to the continuing education program with Artelia held in September 2023.

California State University Maritime Academy – Trainee Selection Exam Services

Contract Expiration: TBD

Board staff continue to put on hold a new contract with Cal Maritime for Trainee Selection Exam services as 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

Board staff have met with SCO staff regarding the pending Inter Agency Agreement and expect to begin collaborating on the development of an agreement in November.

Request for Offer – IT Modernization Project Manager (23M900002)

Contract Expiration Date: TBD

Board staff, Caltrans IT Staff, and CHP Contract staff continue to work towards the release of a Request for Offer (RFO) to solicit proposals from state-certified IT Project Manager. Board staff have completed extensive updates to the draft and expect to release the RFO in the next 7-14 days, depending on final reviews from CHP and Caltrans.

Certified Public Accountant Services to the SFBP Pension Plan (23M900006)

Contract Expiration Date: TBD

Small Business solicitation to procure a contractor to provide certified public accountant services to the San Francisco Bar Pilot Pension Plan. Services include quarterly surcharge calculations, monthly pension payment reports, and periodic cost of living increase calculations.

Statewide Travel credit card for travel payment system services (23M900007)

Term: November 1, 2023, through November 1, 2026

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Agreement is entered into under a Master Services Agreement in place with US. Bank National Services. CHP staff are working to finalize the agreement.

Board Counsel Eagan officially announced that Board Counsel Patrick Tuck will replace him. Board Counsel Eagan reported he will remain on with the Board to assist the transition for two to three months.

In response to Commissioner Carr’s inquiry regarding the pension contractor, Executive Director Garfinkle explained that there is an accounting firm involved in calculating the pension allocations. He noted that this contracting firm has successfully bid this contract for six consecutive years and have done a great job, especially with short lead times.

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

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

On behalf of Port Agent Carlier, who was not present, Commissioner Nyborg reported that the following pilots were absent for medical reasons (AFMR):

- Captain Drew Aune since March 27, 2023
- Captain David Cvitanovic since August 30, 2023 – Fit For Duty (FFD) as of October 21, 2023.
- Captain Michael Rubino since September 27, 2023
- Captain Mark Barnum since October 4, 2023

He 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 compensating time off requests, deferring scheduled training sessions

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and calling in off-watch pilots.

He reported there are currently 53 licensees on the SFBP roster.

In September, there were 15 MRP exceptions, with the shortest rest period being 10 hours.

Executive Director Garfinkle noted that there are 55 licensed pilots, and he reminded the Port Agent that, according to statute, the Port Agent represents all pilots, not just the pilot members of SFBP.

B) Monthly report on SFBP ship piloting business activity.

For the months of September and October, Commissioner Nyborg reported normal operations for P/Vs DRAKE, GOLDEN GATE (old), and SAN FRANCISCO. P/V CALIFORNIA was in the shipyard from September 7, 2023, to the end of October. P/V GOLDEN GATE (new) began service on September 13, 2023, but was offline due to warranty and engine alarm code issues between September 22 and September 26, 2023. P/V PITTSBURG returned to service September 26, 2023.

He reported that vessel moves for September 2023 were as follows:

- Bar Crossings: 492
- Bay Moves: 125
- River Moves: 55
- Total Moves: 672
- Gross Registered Tons (GRT): 29.4 million

He also reported that when comparing 2023 year-to-date vessel move data with the same period in 2022, total moves were up 9.2% and GRT was up 26.3%.

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.

Item C was discussed in closed session.

8. Pilot Evaluation Committee (Captain Robinson)

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

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PEC Committee Chair Captain Robinson reported on the following:

- The PEC met on October 18, 2023, and in attendance were Committee members Captains Bridgman, Ruff, Slack, Wehr, and Robinson.
- There are currently three trainees: Captains Barron, Gallo, and Meyer. The trainees' range of time in the program is from two months to 18 months.
- Trainee Meyer has his First-Class pilotage endorsements for unlimited tonnage on San Francisco Bay by the U.S. Coast Guard. Trainee Meyer is in the evaluation stage of the Pilot Trainee Training Program.
- Trainees Barron and Gallo are acquiring trips to obtain their First-Class Pilotage endorsement for unlimited tonnage upon San Francisco Bay.
- In closed session, all trainees were individually interviewed and counselled on their progress in the training program. All trainees are progressing at their own rates.
- The next PEC meeting is scheduled for December 6, 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.

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.

Captain Robinson presented Pilot Trainee Meyer's training program completion details. He informed the Board that the PEC unanimously recommended that the Board issue a Certificate of Completion to Trainee Meyer for successfully completing the Pilot Trainee Training Program.

President Tynan inquired to Executive Director Garfinkle if he had verified that Trainee Meyer had met all the requirements for a Certificate of Completion. Mr. Garfinkle replied that he had, and he recommended that Captain Meyer be granted a Certificate of Completion.

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MOTION: Commissioner Nyborg moved to award a Certificate of Completion to Trainee Meyer as of today, November 2, 2023. Vice President Schmid seconded the motion.

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

President Tynan inquired of Executive Director Garfinkle if he had received an application for licensing from Captain Meyer. Mr. Garfinkle replied that he had, and that Captain Meyer had met all the requirements for licensure. He recommended that Captain Meyer be granted a state pilot license.

MOTION: Commissioner Carr moved to issue a state pilot license to Captain Meyer as of today, November 2, 2023. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

Recess at 10:35 a.m.

Captain Meyer was sworn in as a State licensee.

Open Session resumed at 10:45 a.m.

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 noted one report had been received on the M/V HONG KONG, which was inbound. The report noted uneven ladder steps. The report was forwarded to the United States Coast Guard, San Francisco Port State Control Division.

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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.)

Regarding the following four reportable piloting events, Executive Director Garfinkle stated that all investigations remain on-going.

A) Progress report on the June 30, 2023, event involving the M/V EVER LOGIC who was passing the M/V EVER FASHION, which suffered gangway damage as the result of hydraulic interaction. Possible IRC request and Board action on an extension to present this report at the next monthly Board meeting.

MOTION: Commissioner Hayes-White moved to extend presenting this report at the next monthly Board meeting. Commissioner Nyborg seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

B) Progress report on the July 6, 2023, event involving the P/V RUBY PRINCESS which made unintended contact with Pier 27. Possible request and Board action on an extension to present this report at the next monthly Board meeting.

MOTION: Vice President Schmid moved to extend presenting this report at the next monthly Board meeting. Commissioner Hayes-White seconded the motion.

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

NO: None.

ABSTAIN: None.

ACTION: The motion was approved.

C) Progress report on the July 23, 2023, event involving the M/V NEW HANDY which made unintended contact with the San Joaquin River Light #39. Possible request and Board action on an extension to present this report at the next monthly Board meeting.

MOTION: Commissioner Hayes-White moved to extend presenting this report at the next monthly Board meeting. Commissioner Nyborg seconded the motion.

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

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ACTION: NO: None.
ABSTAIN: None.
The motion was approved.

D) Progress report on the September 1, 2023, event involving the M/V BOHOL ISLAND, which made unintended contact with the pier at Sacramento, CA. Possible request and Board action on an extension to present this report at the next monthly Board meeting.

MOTION: Commissioner Hayes-White moved to extend presenting this report at the next monthly Board meeting. Vice President Schmid seconded the motion.

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

ACTION: The motion was approved.

11. Significant Port Safety and Security Cases Report (Executive Director Garfinkle)

Executive Director Garfinkle noted that he limits his reporting of port safety and security cases to those incidents where a Board licensee would be employed. He stated that these reports are from the U.S. Coast Guard via the Harbor Safety Committee meeting, and he noted two incidents:

Loss of Steering (02SEP2023): A foreign-flagged tank vessel experienced a loss of steering while attempting to depart Anchorage 9. The vessel's #2 steering pump was fully repaired. Class surveyor attended the vessel and witnessed satisfactory operation of the steering gear. Case closed.

Loss of Propulsion (27SEP2023): A foreign-flagged passenger vessel experienced a loss of propulsion while approaching an anchorage. The pilot reported multiple failed start attempts of their propulsion, and the astern propulsion ultimately started. In addition, the vessel could not reach normal RPMs for full astern. Case pending.

12. Pilot Fitness Committee (Committee Chair Miller)

A) Report on Pilot Fitness meeting held on September 29, 2023.

Pilot Fitness Committee Chairman Miller noted that the Committee met on September 29, 2023 to review changes suggested by a reviewing attorney at the Office of Administrative Law (OAL), to the proposed fatigue regulations. The Committee

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discussed the suggested changes and received input from stakeholders. They then approved edits to the Express Terms based on those discussions.

B) Review of Committee and staff recommendations on amendments to the Express Terms of the Pilot Fatigue Regulations in response to suggestions from the Office of Administrative Law and possible approval of proposed recommendations. Possible Board action to approve amendments to the Express Terms of the proposed Pilot Fatigue Regulations.

The Office of Administrative Law suggested proposed regulation changes to section 218.1 of the Express Terms, which included on what basis would the Board accept or reject the FRMS, asked to define what the words "rest opportunity," as it applies to rest on the pilot boat means, define what the words "rest break," as used in relation to two-week work periods means, and define what the words "rest period," as used in subsection (g), to define time off the board, means.

Board Counsel Egan stated that there is a definition of *rest period* as defined by the *maximum work period*. He discussed various options to be presented to OAL on the regulatory draft language interpretations and changes for establishing pilot fatigue standards pending any Port Agent proposals. Consensus for acceptance was reached by the Pilot Fitness Committee. SFBP Counsel Baldwin and CalSTA Deputy Secretary of Audits and Administration Roma-Plant both suggested additional technical edits to make the provisions conditional.

From the Expressed Terms Document, Board Counsel Eagan discussed technical edits to clarify **rest period** and **rest break** interpretations. Mr. Baldwin agreed with Committee Member Nyborg to eliminate the term *rest break* in favor of a pro-active definition for *rest period* as the time between work periods (defined in subsection C) and the 14 to 15-day continuous availability for assignments which does not require a protocol by the Port Agent thereby replacing "*rest break*" with "*extended rest period*".

MOTION: Vice President Schmid moved to approve amendments to subsections: (d), (f), (g), and (j) of §218.1 of the Express Terms of the proposed Pilot Fatigue Regulations. Commissioner Nyborg seconded the motion.

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

ACTION: The motion was approved.

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13. Pilot Power Committee (Commissioner Captain Carr)

A) Report on the Pilot Power Committee meeting held on October 24, 2023.

Commissioner Carr reported that the Committee reviewed the retirement survey which was completed in July 2023 (100% participation by the licensees), to which five had self-reported that they were eligible to retire (but not planning to retire) between now and 2025. Board staff reported that the intent for future surveys is to have staff report on retirement eligibility, as opposed to self-reporting by this information on the survey.

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 to contract with one or more pilot trainees for participation in the Pilot Trainee Training Program. (Chair Carr)

Commissioner Carr stated that the Committee had assessed the need for pilot trainees. The committee reviewed the number of licenses and the number of trainees in the program currently (three), and the PEC Chair recommendation to add two additional trainees. Therefore, the Committee is recommending to the board to contract with two candidates from the current list to join the pilot training program.

MOTION: Commissioner Hayes-White moved to direct Director, Garfinkle to contract with two pilot trainees for participation in the Pilot Trainee Training Program. Commissioner Carr seconded the motion.

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

ACTION: The motion was approved.

C) Discussion of both the timing of retirement surveys to better align with receipt by the Board of the annual §237(d) report and the frequency of the retirement surveys to once per year. Discussion of whether one retirement survey per year is sufficient to make informed pilot power decisions. Possible Board action to change the timing and frequency of the retirement surveys.

Commissioner Carr stated that the Committee had discussed the timing and frequency of retirement surveys. A recommendation was made to change the frequency of the survey to one time, annually, and to have the next planned survey in April 2024 to coincide with the submission of the Section 237(d) data provided by the SFBP to the Board. Following the discussion there were no dissenting opinions.

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The Executive Director opined that since promulgation of the survey is a Board staff function, no action by the Board was necessary to make this change.

14. Status report on the regulatory process for mitigating pilot fatigue (Executive Director Garfinkle)

Executive Director Garfinkle reported that a new comment period was being opened to allow for public comment on the proposed edits to the regulations suggested by the Office of Administrative Law (OAL). Once that comment period is closed, if no comments are received, staff will process the regulatory package and submit to OAL.

15. Status report on the Board’s Information Technology Modernization Project. (Executive Director Garfinkle/Assistant Director Millspaugh)

As reported in the Assistant Director’s report on contracts, Board staff, Caltrans IT Staff and CHP Contract staff continue to work towards the release of a Request for Offer (RFO) to solicit proposals from state certified IT Project Manager. Board staff have completed extensive updates to the draft and expect to release the RFO in the next 7-14 days, depending on final reviews from CHP and Caltrans.

16. Board discussion concerning Board of Pilot Commissioners website protocols. Discussion and possible formation of Ad Hoc Committee to review website protocols (Executive Director Garfinkle/Board Counsel Eagan)

Board Counsel Eagan and Board Counsel Tuck commented that they were consulting with other state agencies to determine what website protocols are being employed. They noted that if an item is submitted that is germane to the agenda, allowing staff to edit or redact parts of the text could raise First Amendment issues. It was also noted that if an item is perceived to be libelous or slander, there are available remedies under the law.

Commissioner Nyborg stated he favored the item remaining on the agenda to allow stakeholder input, and found it frustrating that the State doesn’t have preexisting protocols. Commissioner Carr also favored keeping the item on the agenda for further discussion.

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

(Refer to Agenda Item 2 for Mike Jacob’s report.)

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18. Discussion of the scheduling of the November Board meeting occurring so close to the October Board meeting. Possible Board action to reschedule or cancel the November Board meeting.

MOTION: Commissioner Hayes-White moved to cancel the regularly scheduled November Board meeting, previously scheduled for November 9, 2023. Commissioner Carr seconded the motion.

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

ACTION: The motion was approved.

*Recess at 11:40 a.m.
Meeting resumed at 11:52 a.m.
Closed session started at 11:52 a.m.
Open session resumed at 12:17 p.m.*

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

There were no public comments.

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

Commissioner Carr proposed the Board consider extending the Incident Review Committee’s statutory deadline from 90 days to 120 days due to long wait times during the investigations for items such as for FOIA requests. Executive Director Garfinkle reminded the Board that the 90 day time limit is in statute and would take legislative action to change.

21. Adjournment.

MOTION: Commissioner Hayes-White moved to adjourn the Board meeting. Commissioner Carr seconded the motion.

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

ACTION: The motion was approved, and the meeting was adjourned at 12:19 p.m.

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Submitted by:



Allen Garfinkle
Executive Director