

Meeting Date: October 12, 2016	Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111 Navigation Technology Committee Meeting Minutes	Page 1 of 5
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Committee Members Present

Captain George Livingstone, Chairman and Commissioner
John Schneider, Commissioner
Dave Connolly, Commissioner
Captain Rick Hurt, Pilot Designee

Committee Members Absent

Jennifer Ferrera Schmid, Commissioner

Staff Present

Allen Garfinkle, Executive Director
Roma Cristia-Plant, Assistant Director
Dennis Eagan, Board Counsel
Luis Cruz, Staff Services Analyst
Sigrid Hjelle, Office Technician

Public Present

Knute Michael Miller, Past Board President; Captain Dave McCloy, San Francisco Bar Pilots (SFBP); Mike Jacob, Vice President-General Counsel, Pacific Merchant Shipping Association; and Pilot Trainee Training Program trainees Captains Douglas Alfers, Jason Vogel and David Cvitanovic.

OPEN MEETING

1. Call to order and roll call. (Chairman Livingstone)

Chairman Livingstone called the meeting to order at 10:00 a.m. Staff Services Analyst Cruz called the roll and confirmed a quorum.

2. Review and approval of minutes. There are no minutes to be approved. It appears the last meeting of this Committee as held on April 17, 2008. (Chairman Livingstone)

There were no minutes to be approved.

3. Review Committee's original mission statement. Update and revise as necessary.

Chairman Livingstone read aloud the 2008 Navigation Technology Committee mission statement and stated he would like to discuss updates to the mission statement at a later time, although he expressed in interest in ensuring any updates retain the concept that the Committee will work with stakeholders.

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Executive Director Garfinkle responded to several comments from Pilot Designee Hurt regarding the 2008 mission statement being too specific and applicable to the Committee activities of long ago, and stated that portions of the mission statement still appeared relevant. He committed that staff would consider comments discussed, and prepare a revised mission statement for Committee consideration at the next meeting.

4. Review statutory language of HNC §1190.4.

Chairman Livingstone read aloud Harbors and Navigation Code §1190.4. There were no comments or discussion from the Committee members or the public.

5. Review Board Counsel’s opinion on statutory language and whether rulemaking is required for the Board to implement statute.

Board Counsel Eagan referred to his memo dated October 10, 2016, and reported that, in his opinion, the Board does not need emergency regulations to implement the new statute, particularly if the acquisition of the navigation technology is a one-time event. He also stated that the Board could proceed with emergency rule making if it chose to do so, although he does not advise the Board to undertake this process as the proposed navigation technology purchases and surcharge decisions do not appear to be one of general application. He also stated that implementing emergency regulations is not necessary and may delay the Board’s implementation of the new statutes, particularly since emergency regulations would require California Transportation Agency and Department of Finance review processes.

Board Counsel Eagan added that the Board could direct staff to work on a regular rulemaking process for navigation technology acquisitions and rate setting after it makes its decision on the purchase of new technology since at that point the Board would have experience with this particular process and may have a better idea of the procedures it would like to follow for future navigation technology acquisitions.

Executive Director Garfinkle responded to an issue raised by Mr. Jacob, and stated he confirmed with staff at the Office of Administrative Law (OAL) regarding the Board initiating emergency regulation before the January 1, 2017, effective date of Assembly Bill 1432, and stated that OAL staff confirmed that emergency regulations could be promulgated prior to the enactment of legislation depending upon the justification for the emergency and the magnitude of the impact to public safety.

Mr. Jacob stated that the Pacific Merchant Shipping Association would like the Board to implement emergency regulations similar to the pilot vessel regulations to ensure that there is a transparent process for the new navigation technology acquisitions and the establishment of the related surcharge. He further stated the “emergency” is due to the lack of technical support for the precision piloting equipment used to pilot the ultra large container vessels

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(ULCV) after January 1, 2017, since it was stated at the September Finance Committee meeting that the company that provides technical support for the precision piloting units would not be providing support after the end of this year. He stated that the SFBP's ability to provide ULCV piloting services early next year is highly important to the Port of Oakland, and that the lack of fully supported ULCV precision piloting equipment is a public safety issue.

Captain McCloy clarified for the Committee that Booz Allen Hamilton, the company that provides support for the SFBP's current precision piloting equipment, is now confirming that it will provide technical support after January 1, 2017, although he has some reservations about the company's ability to follow through on its assertion. Pilot Designee Hurt added that the SFBP has 3 precision piloting units in use now, and that usage of such equipment is increasing as more ULCVs are visiting the Bay Area. He stated he would have preferred to have replacement precision piloting equipment acquired by last June, and that he does not wish to have anything delay the process of the Board considering replacement equipment, including the implementation of emergency regulations.

Executive Director Garfinkle stated that there may not be adequate justification for emergency regulations if the SFBP will have full technical support for its precision piloting equipment into next year, and current personal piloting units are still usable.

Captain McCloy confirmed for Assistant Director Cristia-Plant that the SFBP is considering acquiring the new navigation technology equipment (both personal piloting units and precision piloting units and related equipment and software) in one request to the Board, and projects to continue the use of existing software licenses for the personal piloting units, but will need to purchase a few more software licenses. He did not rule out that there could be future technology purchases if the initial request is below the statutory cap of \$1.2 million.

Board Counsel Eagan confirmed for Chairman Livingstone that he is not objecting to navigation technology regulations, but that regulations could be adopted by the Board after it has experience with implementing the new navigation technology statutes. Chairman Livingstone expressed a concern about the availability of staff time to implement emergency regulations given other Board mission critical tasks that are underway such as the Pilot Trainee Training Program selection examination and the pilot fatigue study. Commissioner Schneider also echoed a concern about the emergency rulemaking process and timing given his concern to make timely decisions on the new navigation technology purchases.

Mr. Jacob reiterated that he believes it is important for the Board to establish a formal process to implement the new navigation technology statute, and that emergency regulations appears to be the best mechanism to do so. There were no further comments from the public.

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Chairman Livingstone proceeded with the discussion of Agenda item 7 prior to Agenda item 6.

7. Possible presentation and initial consideration of evidence and data to develop recommendations regarding proposals to upgrade the Navigation Technology currently used by the SFBP as reasonable and necessary within the meaning of the statute that becomes effective January 1, 2017.

Captain McCloy reviewed the San Francisco Bar Pilots' Navigation Technology Development report dated October 11, 2016, and briefly reviewed a description of the current technology and the new system proposal. He stated there are currently four companies that are under consideration (three foreign hardware companies and one U.S. software company),

He stated that most of the new navigational technology systems are server supported with software updates performed automatically, but at an increased cost over manual system updates. He stated that the SFBP's Navigation Technology Committee is also reviewing a supplier's stability, and ability to provide ongoing support and warranty service, and that the committee expects to have a detailed equipment and software acquisition proposal by the beginning of next month. He stated there will be at least a two-month lead time to purchase the precision docking equipment. He also indicated that the training on the new equipment will be conducted through a "train the trainer" process.

Captain McCloy responded to questions from Assistant Director Cristia-Plant regarding the financing for the new technology, and indicated that current estimate for total purchase price of the new technology is approximately \$900,000. He further stated the SFBP expects to review various loan financing options since leasing was determined to be too expensive, .

Chairman Livingstone commented that although the current navigational technology equipment was well trusted at the time of purchase, the technology is now outdated. He stated the new equipment will provide more accuracy on rate-of-turn information, and that the upcoming bridge resource management training will be appropriately updated to reflect the new navigation technology. Pilot Designee Hurt also stated that the new portable piloting units (PPUs) will be able to provide visual real-time data in fog conditions since the current PPUs may be providing data that is one ship length behind, depending on the GPS smoothing rate set by the vessel (and generally out of the pilot's control.)

Mr. Jacob reminded the Committee that maximum \$1.2 million cap for the navigational technology surcharge was established two years ago in discussions between the SFBP and industry. He stated that the new technology is to be an upgrade to existing technology.

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6. Review draft Navigation Technology regulations concerning procedure for implementing statute. Possible recommendation to full Board to commence emergency rulemaking.

The Committee reviewed, but did not discuss, draft emergency navigation technology regulations prepared by staff. There was no discussion or comments from the public other than a comment from Mr. Jacob encouraging the Committee to recommend to the Board that it proceed with emergency regulations similar to those drafted by staff. Based upon Board Counsel's advice, the Committee decided to proceed with a recommendation to the Board regarding emergency rulemaking.

MOTION: Commissioner Connolly moved that the Committee recommend to the Board to direct staff to commence emergency rulemaking to create navigation technology regulations implementing and making specific Harbors and Navigation Code section 1190.4. Commissioner Schneider seconded the motion.

VOTE: YES: None.
NO: Livingstone, Connolly, Hurt and Schneider.
ASBTAIN: None.

ACTION: The motion was not approved.

8. Public comment on matters not on the agenda.

There were no public comments on matters not on the agenda.

9. Schedule next Committee meeting, and proposals for items on the next meeting agenda.

The Committee scheduled the next meeting on November 8, 2016, at 10:00 a.m.

10. Adjournment

Chairman Livingstone adjourned the meeting at 12:30 p.m.