

MEETING MINUTES

STATE OF WASHINGTON ~ BOARD OF PILOTAGE COMMISSIONERS

March 12, 2009

Present:

Chairman: Harry Dudley

Commissioners: Chuck Davis, Pat Hannigan, Bill Snyder, Craig Lee, Jeff Thompson,
Norm Davis, Elsie Hulsizer

Administration: Peggy Larson, Judy Bell

Del Mackenzie, Mel Flavel, Walt Tabler (Administration): Puget Sound Pilots

Mike Moore, Jordan Royer, Vince Addington, Lon Cain: Pacific Merchant Shipping Association

Gary Nelson, Mary Nelson: Port of Grays Harbor (by telephone)

Steve Moreno, Jim Caspers: Pilot Applicant

Mike Gavin, Del Kelly: Retired Puget Sound Pilot

Dan Twohig: Public

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:30 a.m. by Chairman Harry Dudley in the Agate Conference Room at 2901 Third Avenue, Seattle, Washington.

Minutes. There being no corrections or additions, the February 12, 2009 Minutes stand approved as written.

OLD BUSINESS

Consideration of Licensure of Captain Katharine Sweeney. No action was taken; this matter will be on the next regular meeting agenda.

Pilot's Report of Incident: *SITEAM VOYAGER*, 12-6-08. The Board sent a letter to Captain Stephen Cooke requesting that he appear today to present further information; however, he had a previous commitment. The matter was deferred to the next regular Board meeting.

NEW BUSINESS

Approval of Pilot License Upgrade Programs for Captain Pat Kelly and Captain Stephen Cooke. It was moved by Commissioner Snyder and seconded by Commissioner Lee that the license upgrade program for Captain Pat Kelly be approved as drafted by the TEC. The motion carried. He is nearing completion of his third license year. It was moved by Commissioner Snyder and seconded by Commissioner Hulsizer that the license upgrade program for Captain Stephen Cooke be approved as drafted by the TEC. His program permits him to take trips in the Puget Sound Pilotage District if the appropriate size vessels aren't available in the Grays Harbor Pilotage District. The motion carried. He is nearing completion of his fourth license year.

Approval of Pilot Training Programs for Captains Stephan Moreno, John Scragg, David Brusco and Jim Caspers. The TEC has been working for the past several months on the development of the new training format for the applicants who passed the 2008 pilot exam. Effective July 1, 2008 applicants are no longer required to have federal pilotage on their license in order to be eligible to take the pilot exam. There are however, some who have all or some of their Puget Sound pilotage. The challenge for the TEC was to create a training program which fits each trainee's experience and license. The TEC met with Captains Moreno, Scragg, Brusco and Caspers for this purpose. Other changes since July 1, 2008 affecting these new trainees are that the minimum training program is longer by one month and twenty trips (now eight months and 150 trips) and the maximum length of a training program for a trainee taking a stipend is thirty-six months. It was moved by Commissioner Thompson and seconded by Commissioner Hannigan that the Board approve the four training programs as drafted by the TEC.

The motion carried. The applicants have fifteen days to respond to the Board concerning the acceptance of their training programs. Upon acceptance of their training programs they will be issued training licenses numbered 19-22 with the intent to begin training on April 1, 2009.

Consideration of Request for Vessel Exemption: Sailing Yacht *CHIMERA*. A petition for vessel exemption was received regarding the foreign flagged 90', 123 gross ton Sailing Yacht *CHIMERA*. Pursuant to RCW 88.16.070 and WAC 363-116-360, this vessel qualifies for an exemption from pilotage requirements. It was moved by Commissioner C. Davis and seconded by Commissioner Hulsizer that the Board grant a one year exemption to the *CHIMERA* as requested, beginning April 1, 2009, so long as it remains in the charge of Captain James Turner. The motion carried. It was noted by Commissioner Hulsizer that it is not indicated whether this vessel has an Automatic Identification System (AIS). Discussion led to a Board recommendation that all vessels under exemption should be equipped with AIS. The exemption form will be modified to reflect this query and recommendation.

Consideration of Request for Vessel Exemption: Motor Yacht *ROSEHEARTY*. A petition for vessel exemption was received regarding the foreign flagged 183', 499 gross ton Motor Yacht *ROSEHEARTY*. Pursuant to RCW 88.16.070 and WAC 363-116-360, this vessel qualifies for an exemption from pilotage requirements. It was moved by Commissioner Lee and seconded by Commissioner N. Davis that the Board grant a one year exemption to the *ROSEHEARTY* as requested, beginning May 1, 2009, so long as it remains in the charge of Captain Simon Potter or Captain Ryan Green. The motion carried.

Pilot's Report of Marine Safety Occurrence: *MANOA, 2-27-09*. The Board received a written report submitted by Puget Sound Pilot, Captain John Ward. Upon boarding the vessel at the Port Angeles Boarding Station, the pilot was informed that the vessel was experiencing engine trouble. VTS was informed and two tugs were dispatched to assist the vessel to anchor in Port Angeles Harbor. The apparent problem was a faulty gasket on the start air distributor which was estimated to be a 4-5 hour repair. The COTP ordered a USCG inspection and an ABS inspection of repairs before allowing the vessel to depart the anchorage for its berth in Seattle. It was moved by Commissioner C. Davis and seconded by Commissioner Thompson that this report be filed as a Marine Safety Occurrence. The motion carried.

2009 Annual Tariff Hearings Preparation: PSPD – Walt Tabler presented a brief overview of the Puget Sound Pilots' 5-Year Capital Spending Plan and fielded various questions from the Board. The PSP 2008 audited Financial Statement was also submitted and distributed.

Letters, both dated March 12, 2009, from Puget Sound Pilots and Pacific Merchant Shipping Association were presented which detailed their requests for rule amendments to the Puget Sound Pilotage District 2009-2010 tariff. It was moved by Commissioner Hannigan and seconded by Commissioner Lee that the Board file a proposed rule which reflects an across-the-board adjustment to the tariff in a range between a decrease of 6% as proposed by the Pacific Merchant Shipping Association (PMSA) and an increase of 5% as proposed by the Puget Sound Pilots (PSP). The motion carried.

Separate consideration of an adjustment to the *British Columbia Direct Transit Charge* category was requested by PSP by using either the Dec-Dec CPI figures or the Average CPI figures. It was moved by Commissioner Hannigan and seconded by Commissioner C. Davis that at the May Board meeting the Board will consider setting a policy regarding if the Board uses a CPI at all for adjusting elements within the tariff which method will be used, "Dec-Dec" or "Average". The motion carried with a vote of four in favor and Commissioners Thompson, Hulsizer and Lee opposed.

Unlike some previously proposed tariff amendments, this proposed rule reflects an across-the-board adjustment which does not exclude transportation charges. It was moved by Commissioner Hannigan and seconded by Commissioner Hulsizer that it is understood and agreed that all transportation categories may be considered separately and won't necessarily fall under an across-the-board action within the proposed range of adjustments. The motion carried.

Due to scheduling conflicts, moving the May 14th date of the public hearing and meeting was discussed. It was moved by Commissioner Lee and seconded by Commissioner Thompson to file the above proposed rule amendments with the Code Reviser for a public hearing to be held May 19, 2009; and also to amend the *Tariff Document Submittal Timetables* to reflect this date change. The motion carried.

2009 Legislative Activity Report. House Bill 2120 calls for the Utilities and Transportation Commission to assist our Board in setting pilotage rates. Fiscal notes were submitted to the legislature by both the UTC and the BPC. There has been no hearing scheduled on this bill. SSB 6095 which is named "Clarifying that Retirement Costs Continue to be Authorized as a Charge Included in the Puget Sound Pilotage District Tariff", was first heard before the Senate Transportation Committee on February 25th. This legislation was put forward by the Puget Sound Pilots and sponsored by Senators Haugen and Swecker. An amendment was made and passed on March 2nd which clarifies that the state is not obligated to fund pilot retirement payments. The next activity is a public hearing in the House Transportation Committee on March 17th. A Senate Confirmation Hearing for Commissioners Chuck Davis, Elsie Hulsizer, Craig Lee, Bill Snyder, Pat Hannigan and Jeff Thompson was held on February 26th. All six confirmations passed out of Rules Committee and were placed on the confirmation calendar.

Activity Reports. Gary Nelson, Executive Director, Port of Grays Harbor, reported that in February there were 4 arrivals and 11 jobs; year-to-date there have been 6 arrivals and 18 jobs which is close to PGH projections; both pilots are participating in the review of the responses to an RFP for a tug to be used for an assist tug and pilot launch service; Captain D'Angelo is on duty this month.

Captain Del Mackenzie, President, Puget Sound Pilots, reported there are currently 55 licensed pilots including the president; there were 557 jobs in February compared to 643 in February 2008 resulting in a three year February average of 614; February traffic was off 86 jobs from 2008; in February 19 comp days were created and 28 days taken for a net reduction of 9; Captains Marin Johnson, Gary Hurt, Tom Jacobs and Vic Engstrom are currently on medical leave; 2 pilots attended manned model training in Port Ash in February; PSP, Alaska Tanker and Crowley Marine met at PMI to finalize their 3-day Tug Escort Class which will soon be available for scheduling; Captain Mackenzie illustrated the new Vega sector light that will be installed at the new cruise ship terminal located at Pier 91; and the COTP has asked all Puget Sound area stakeholders to produce operational guidelines for reduced visibility which PSP will share with the Board after submitting to the USCG.

Mike Moore, representing Pacific Merchant Shipping Association, reported on the status of the emergency response tug legislation and that there will be a post-session cost assessment analysis to determine fair share costing; a handout was presented regarding the struggling ports in the Pacific Northwest and the jobs that are at risk; ports like LA Long Beach and others are offering bounties of up to \$20 per container to attract business in their area; there is concern that discretionary cargo could be lost to more attractive ports; some contracts are being opened to lower rates; and there are record numbers of lay-offs, closures, laid up container ships and lost longshore shifts. (15 Minute Break)

Committee Reports.

Trainee Evaluation Committee:

- The TEC met on March 3rd.
- At the February 12th Board meeting the TEC was authorized to develop three-month training program addendums for pilot trainees Steve Jones and Larry Seymour which would extend their training programs through May 31st. It was moved by Commissioner C. Davis and seconded by Commissioner Thompson that the training program addendums for Captains Jones and Seymour as presented to the Board for review be adopted. The motion carried.
- A new training report form for the next class of trainees was reviewed and slightly amended by the Board. It was moved by Commissioner Snyder and seconded by Commissioner Lee that the new *Pilot Trainee Training Evaluation Report* form be approved as amended. The motion carried.

- The TEC drafted a Policy Statement with regard to the nature and purpose of a Trainee Conning Quiz. It was moved by Commissioner Hannigan and seconded by Commissioner N. Davis that the Board approve the Policy Statement as drafted. The motion carried. Various exam software is being tested and vetted. The Board will acquire a computer and software for purposes of administering the Conning Quizzes.

Legislative/WAC Committee: No activity to report at this time.

Work Group Report: Extension of Route and Contract Pilotage. No activity to report at this time.

Legal Update. The Board's legal counsel Guy Bowman requested that the Board discuss in Closed Session the matter of Captain Bruce Nelson's request for an Administrative Law Judge.

Administrator's Report. The 2692 report requested by the Board concerning the injury of Captain Vic Engstrom has been received from Crowley Marine.

Commissioner Comments. Commissioner Hannigan, on behalf of new trainee Captain John Scragg, informed the Board that in order to add the pilotage endorsement to his federal license he must have 90 days of recency on his license. He is currently employed and will complete his 90 days by April 25th. It was moved by Commissioner Hannigan and seconded by Commissioner C. Davis that the Board give written consent to Captain Scragg to delay entry into his training program by one month for a May 1st start date because he is unable to begin on April 1st. The motion carried. Written communication will go out to Captain Scragg along with a revised Training Program showing a May 1st start date.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for Thursday, April 9, 2009 at 9:30 a.m. in the Agate Conference Room, 2901 Third Avenue, Seattle. Reminder: The public hearing and Board meeting scheduled for May 14th has been rescheduled for May 19th.

Review of Pilot Physical Examination Reports. After reviewing the physicians' reports it was moved by Commissioner C. Davis and seconded by Commissioner Snyder that the physical examination reports for Captains R.L. D'Angelo, C.C. Hunziker, B.S. Knowles, R.N. Kromann, R.F. McCurdy, D.A. Sanders and M.D. Wood be accepted for annual license renewal and S.E. Moreno, J.C. Scragg and J.R. Caspers for training licensure. The motion carried. Captains M.I. Johnson, G.D. Hurt, T.A. Jacobs and V.O. Engstrom remain unfit for duty. At the written request of Captain Marin Johnson he is asking that he be considered for dispatch on March 31st pending a satisfactory physical report by telephone call/fax from his Board-designated Physician on March 30th. It was moved by Commissioner Lee and seconded by Commissioner Thompson that Captain Johnson be authorized to return to work pending the receipt of a satisfactory physical report by phone/fax from his Board-Designated Physician. The motion carried.

A CLOSED SESSION was called from 1:30 p.m. to 2:10 p.m. to review Simulator Evaluation Review Forms with the PMI analysis and to discuss potential litigation. In attendance were Chairman Dudley, Commissioners C. Davis, Hannigan, Snyder, Lee, Thompson, N. Davis and Hulsizer; Judy Bell and Peggy Larson.

REGULAR SESSION (cont'd)

In Closed Session the Board concluded its review of the pilot applicants' requests for review of their Simulator Evaluations. The Simulator Evaluations and *Review Forms* were also reviewed by a representative of COMIRA, Captain William Anderson. It was moved by Commissioner Hannigan and seconded by Commissioner Lee that the Board accept the recommendation of Captain Anderson relative to the requests for review. The motion carried. Commissioner Thompson abstained. Captain Anderson's recommendation was that no scores be adjusted. These three applicants will be notified of the Board's decision. It was moved by Commissioner Hannigan and seconded by Commissioner Thompson that the Board publish a final rank-ordered list of the names of the successful pilot exam

applicants which mirrors the previously published interim list. The motion carried. The final list consists of fourteen successful applicants now awaiting training.

Also in Closed Session the Board discussed the matter of Captain Bruce Nelson's request for an Administrative Law Judge concerning the Board's decision regarding his pilot training program. It was moved by Commissioner Snyder and seconded by Commissioner C. Davis that the Board reply to Captain Nelson by way of his attorney and request that the Office of Administrative Hearings appoint an Administrative Law Judge in this matter. The motion carried.

There being no further business to come before the Board, the Chairman adjourned the regular session Board meeting at 2:15 p.m.

Respectfully submitted,

Peggy Larson, Administrator

Harry H. Dudley, Chairman

Charles M. Davis, Vice Chairman

VACANT
Public Member

Commissioner Patrick M. Hannigan

Commissioner William H. Snyder

Commissioner Craig W. Lee

Commissioner Jeffrey L. Thompson

Commissioner Norman W. Davis

Commissioner Elsie J. Hulsizer