

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

February 10, 2005

Present:

Chairman Dudley, Commissioners Davis, Mackey, Niederhauser, Hannigan, Addington and Lee
Assistant Attorney General, Susan Cruise
Administrator, Peggy Larson and Administrative Assistant, Judy Bell

Captain Bill Bock, Captain John Harris, Mr. Walt Tabler: Puget Sound Pilots

Gary Nelson: Port of Grays Harbor

Norm Davis: Department of Ecology

Gordon Wildes, Larry Seymour, Katharine Sweeney: pilot aspirants

Captain Danny Ellis, Ron Kinsey: US Coast Guard

Captain Steve Cooke: Grays Harbor Pilotage District pilot candidate

Graham Wilson: UK MAIB

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:30 a.m. by Chairman Harry Dudley at 2911 Second Avenue, Seattle, Washington.

Minutes. There being no corrections or additions, the January 13, 2005 Minutes stand approved as written.

OLD BUSINESS

2005 Legislative Activity Report.

Board Appointments and Senate Confirmations: Peggy Larson reported that she had been contacted by Governor Gregoire's office concerning the status of the seven appointed members of the Board. All gubernatorial appointments are under review and members will either be reappointed or replaced. Members will be advised and Senate confirmation hearings will then be scheduled.

Senate Bill 5150 – Marine Pilot Licensing Qualifications and Procedures: Chairman Dudley reported that Senator Mary Margaret Haugen has amended our agency request bill due to stakeholder and constituent comments she has received. The amendment retains the requirement, until July 1, 2008, for the federal license endorsement for a pilot applicant at the time of application. After that date, the endorsement may be required anytime prior to licensing. This amended bill substitutes for the original bill and will be considered at the time of the first public hearing by the Senate Transportation Committee.

Senate Bill 5207 – Liability Limitations for Providing Pilotage Services: Gary Nelson reported that the Port of Grays Harbor's bill has been dropped, read and also amended to add language that specifies that the Port of Grays Harbor is the only port affected by the bill. This amended bill substitutes for the original bill and will be considered at the time of the first public hearing by the Senate Transportation Committee.

Letter of Concern: Alleged Damages to BP Refinery Wharf, North Berth, Cherry Point.

Pursuant to Board action on January 13, 2005, Commissioner Niederhauser met with Captain M.I. Johnson and submitted a written summary of their discussion concerning the berthing of the *RICHARD G. MATTHIESEN* on December 27, 2004. The issues they reviewed were the use of tugs and the master/pilot relationship, both of which have been discussed and resolved to the satisfaction of Commissioner Niederhauser. It was moved by Commissioner Lee and seconded by

Commissioner Niederhauser that Captain Johnson's letter be filed as a Letter of Concern and noted as such. The motion carried.

NEW BUSINESS

Three-Month Review of PSPD Trainee: Captain Victor Engstrom. After reviewing the *Pilot Training Program Summaries* and *Pilot Trainee Evaluation Reports* Commissioners Niederhauser and Hannigan reported that Captain Vic Engstrom is progressing very satisfactorily and has submitted 79 reports covering the 100 required trip and terminal assignments since he began training on November 10, 2004. It was noted that some of his training trips are with less than five-year pilots and that he may not be able to get the prescribed trips into Bellingham and Port Townsend.

Pilot's Report of Marine Safety Occurrence: 1-12-05. A report was filed describing the following occurrence in the Grays Harbor Pilotage District: While proceeding from Terminal 2 in Aberdeen to sea, there was a problem with one of the fuel pumps on the main engine. The vessel was safely anchored while repairs were made. After testing the engine and hoisting the anchor, the vessel proceeded to the sea buoy where the pilot disembarked. It was moved by Commissioner Davis and seconded by Commissioner Addington that this report of a navigational safety concern be filed as a Marine Safety Occurrence. The motion carried.

Pilot's Report of Incident: *BLUMENAU*, 1-18-05. The written report submitted by Puget Sound Pilot, Captain Will Anderson, has been received by the Board. According to the pilot, while proceeding to anchor in Smith Cove East Anchorage, the pilot informed the captain that it would be necessary to walk out approximately three shackles of chain on the port anchor. The pilot ordered to let go the anchor to five shots and hold the chain, then pay out slowly to nine shackles. The brake was opened and the chain ran a short while. When the crew tried to close the brake it appeared that a piece of brake lining went into the air and the chain kept running freely until all twelve shots carried away. The ship was safely secured using the starboard anchor. The pilot stated he believed the windlass failure was the primary cause of the incident. The nearby *SWIFT ARROW* marked the location by GPS where the anchor went into the water. It was moved by Commissioner Lee and seconded by Commissioner Davis that this matter be declared an "Incident with damages and without pilot error". The motion carried.

Pilot's Report of Incident: *HARMONIC PROGRESS*, 1-25-05. The written report submitted by Puget Sound Pilot, Captain Tom Jacobs, has been received by the Board. According to the pilot, while preparing to shift the vessel from Smith Cove West Anchorage to Pier 86 the captain and pilot began heaving the anchor and eight shots of chain. After the anchor was heaved up it became apparent that the inspector on board wouldn't let the ship depart until cleaning was complete. The pilot told the captain to re-anchor and walk it out. When the mate let the anchor go it paid out all the way. The captain and the mate failed to communicate. The ship was safely secured using the starboard anchor. The vessel failed inspection, the assignment was cancelled and the pilot disembarked. The assist tug *BARBARA FOSS* marked the location by GPS where the anchor went into the water. It was moved by Commissioner Lee and seconded by Commissioner Davis that this matter be declared an "Incident with damages and without pilot error". The motion carried.

With regard to the recent reports of lost anchors, several suggestions were made in the interest of getting the word out about the deep-water anchorages in Puget Sound. Commissioner Hannigan suggested that the master/pilot conference include the mate or bos'n; Captain Ellis, USCG COTP offered to approach the Harbor Safety and Security Committee about establishing a standard of care; VTS through an OPNOTE or Advance Notice of Arrival could remind vessels headed to deep-water anchorages to test their anchoring gear; vessel agents could assist by taking responsibility to notify the vessels in advance; language could be published in the Coast Pilot currently under revision; and Commissioner Niederhauser offered to draft a Safety Advisory Bulletin that would be

issued by the Board. Captain Ellis noted that currently it is his requirement for a vessel departing Puget Sound to have both anchors in working order; otherwise a tug escort is mandated on the trip out to the Straits of Juan de Fuca.

2005 Annual Tariff Hearings Preparation: Timetables for tariff document submission have been drafted for Board consideration for both the PSPD and GHPD showing hearing dates of May 12, 2005 and June 9, 2005 respectively. The Puget Sound Pilots asked for an extra week to submit their 5-year Capital Spending Plan and since the Board is unable to meet on March 10, the schedule for Puget Sound will reflect the new March meeting date of March 15. It was moved by Commissioner Addington and seconded by Commissioner Lee that the PSPD timetable be amended to reflect the revision of the March 3 submission of the 5-year Capital Spending Plan to March 15; replace the March 10 date with March 15; and change all references of PSSOA to PMSA on both the PSPD and GHPD schedules. The motion carried.

Commissioner Addington notified the Board that he will be testifying as a private entity for the Columbia River Steamship Operators Association regarding our Board's tariff-setting procedures. He furnished the Board with an 8-year spread of tariff performance data showing that the self-correcting formula has kept actual income well above target net income for all but one year during this period. He affirmed that the tariff setting-formula is working. Walt Tabler challenged the accuracy of the data. Peggy Larson also reported that a representative from the Columbia River Bar Pilots had recently visited the office to acquire several years of tariff data, also related to the same Oregon state tariff review.

Committee Report: Policy Statement Development Regarding "In Ballast" Definition. Commissioner Lee stated the committee would continue its work to produce a recommended policy statement for Board consideration by the March Board meeting.

Committee Report: WAC Development Regarding Pilot Licensing Qualifications and Procedures. A CR-101 was filed recently announcing the Board's intent to consider WAC revisions or additions in anticipation of current agency request legislation becoming law. Commissioner Davis is asking for volunteers to sit on the Committee and anticipates holding the first workshop/committee meeting in the next few weeks. The Board is aware of a written proposal being developed by a small committee of Puget Sound Pilots, which will be presented to the Board's committee for consideration.

Pilots' Activity Reports. Captain Bill Bock, President, Puget Sound Pilots, reported that as of last month assignments were up about 8% over tariff projections; two pilots are scheduled for radar school in February; Captain John Scoggins took his first assignment on February 8; and Captain Endrody remains on medical leave. Captain Bock also discussed his concern regarding difficulty the pilots are having in the turning basin of the Hylebos Waterway. With the larger vessels and increased congestion, maneuvers are becoming increasingly difficult. He inquired whether or not the turning basin is part of the navigable channel and do the same rules regarding obstruction of a channel apply to the turning basin. Captain Danny Ellis said he would get an answer.

Gary Nelson, Executive Director of the Port of Grays Harbor, reported that there were 4 arrivals in January and 6 are anticipated in February; the Port is aggressively marketing their Terminals 3 and 4 with the hope of attracting new diversified business; and talks regarding the employment of Captain Steve Cooke are ongoing. Captain Cooke wrote a letter to the Board dated February 4, 2005, describing the current situation with respect to his becoming a pilot in Grays Harbor. Other correspondence between him and Gary Nelson was also shared with the Board.

Miscellaneous Correspondence Review. A letter dated February 2, 2005 was received by the Board from Gordon Hudson, on behalf of the Pacific Pilotage Authority in Vancouver, British Columbia. Mr. Hudson, who is undertaking a risk assessment project, has contacted our Board as a stakeholder who may be interested in the "Victoria Approach" issue, which arose out of a request

for a waiver from compulsory pilotage for cruise ships arriving at, or departing from, the marine pilot station outside Victoria Harbour. Mr. Hudson writes, "The cruise industry is required to include a Canadian port in its Alaska cruise traffic in order to comply with the Passenger Act. Initially, when most of the cruise lines used Vancouver as their homeport, compliance was not an issue. However, when the industry moved some of its vessels to homeport in Seattle they included Victoria as the Canadian port of call.

The standard practice when entering or leaving the Victoria Port was to adhere to the TSS established by Transport Canada. Vessels would arrive and depart through this designated corridor outside of the Compulsory Pilotage Area. Cruise ships arriving from Seattle would pick up the Canadian pilot at Brotchie Point Pilot Station located at the edge of the Compulsory Pilotage Area. Vessels departing Victoria for Seattle would drop off the Canadian pilots at the same location. From there, they would proceed along the TSS corridor to the US Pilot Station in Port Angeles to pick up a US pilot for the trip to Seattle.

Some of the cruise lines now wish to change the routing. They want to fly the US pilots to board the cruise ship in Victoria. Once they drop the Canadian pilot at the Brotchie Point Pilot Station, they could head straight out to New Dungeness and bypass the TSS dogleg to the Port Angeles Pilot Station. This arrangement would take them through a five-mile stretch of the PPA's Compulsory Pilotage Area without a pilot. Accordingly, the cruise lines have applied for a waiver under PPA rule 10(2). This rule allows the PPA to waive compulsory pilotage in order to allow a ship to enter the compulsory pilotage area to embark a licensed pilot at the boarding station or leave the compulsory pilotage area after a licensed pilot has been disembarked.

The PPA Board of Directors considered the waiver request and decided that a risk assessment was warranted to determine if the requested change presents an increased risk to safe navigation."

Discussion followed, bringing several comments from Board members and audience participants. One concern is that the US pilot would have to assume the con less than 3 miles from an area that is heavily traveled and would not have ample time to make advance passing arrangements. Since the US pilot cannot officially take the con in Canadian waters would it be prudent for him or her to make the arrangements prior to taking the con, or should the cruise ship captain do so. Basically, entering the TSS near the S Buoy could potentially create some severe hazards. Another concern is what role the US pilot plays when a safety issue arises in Canadian waters without a Canadian pilot on board. It was the general consensus that this requested change would not be in the best interest of safety. Chairman Dudley will discuss these concerns with Mr. Hudson by telephone followed by a formal written response. Captain Danny Ellis will also be taking the matter under advisement.

Public Comments. Captain Danny Ellis gave a brief overview of current and future activity in the Puget Sound district, in addition to making a commitment to follow up on issues previously discussed.

Commissioner Comments. Commissioner Lee was asked by BP refinery management to inform Captain Bock of some issues of concern regarding the Puget Sound Pilots, which will later be forwarded to him.

Confirmation of Next Regular Meeting Date. The next regular meeting date was changed from March 10 to March 15, 2005, in the B Level Conference Room at 2911 Second Avenue, Seattle.

An EXECUTIVE SESSION was called from 11:40 a.m. to 12:10 p.m. for purposes of reviewing pilot physical examination reports. In attendance were Chairman Dudley, Commissioners Davis, Mackey, Niederhauser, Hannigan, Addington and Lee; Susan Cruise, Judy Bell and Peggy Larson. Regular session was reconvened by the chairperson immediately following executive session.

Review of Pilot Physical Examination Reports. After reviewing the physicians' reports it was moved by Commissioner Lee and seconded by Commissioner Addington that the annual physical examination reports for Captains T.A. Jacobs, A.J. Newman and S.A. Robichaux be accepted for license renewal in addition to Captain J.T. Scoggins's report for initial licensure and written follow-up information regarding Captain Semler. The motion carried. Captain Miklos Endrody remains on inactive status as of August 2004, due to a medical condition.

The Chairman adjourned the regular session Board meeting at 12:15 p.m.

Respectfully submitted,

Peggy Larson, Administrator

Harry H. Dudley, Chairman

Charles M. Davis, Vice Chairman

Commissioner Oliver E. Mackey

Commissioner John S. Niederhauser

Commissioner Patrick M. Hannigan

Commissioner Vincent Addington

Commissioner Craig W. Lee

Absent

Commissioner Stanley J. Norman

Absent

Commissioner Andrew C. Palmer