

# MEETING MINUTES

## STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

September 8, 2005

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### Present:

Chairman: Harry Dudley

Commissioners: C. Davis, Mackey, Niederhauser, Hannigan, Addington and N. Davis

Assistant Attorney General: Susan Cruise

Administrator: Peggy Larson and Administrative Assistant: Judy Bell

Captain Richard McCurdy and Mr. Walt Tabler: Puget Sound Pilots

Mary Nelson: Port of Grays Harbor

John Scragg: Pacific Maritime Institute

Ed Marmol, Pat Kelly and Katharine Sweeney: pilot aspirants

Tom Paul: attorney representing Pat Kelly

Captain Del Kelly: public

### REGULAR MEETING

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

**An EXECUTIVE SESSION was called from 9:30 a.m. to 9:45 a.m. for purposes of** discussing potential litigation. In attendance were Chairman Dudley, Commissioners C. Davis, Mackey, Niederhauser, Hannigan, Addington and N. Davis; Susan Cruise, Judy Bell and Peggy Larson. Regular session was reconvened by the chairperson immediately following executive session.

**Minutes.** It was moved by Commissioner Addington and seconded by Commissioner N. Davis that the Puget Sound Pilots' Activity Report on page four should be amended to read, "due to the Hood Canal Bridge temporary closure and high traffic volumes ten pilots were hired back on comp time". The motion carried. It was moved by Commissioner Addington and seconded by Commissioner Hannigan that the August 11, 2005 minutes be approved as amended.

### OLD BUSINESS

**Consideration of Replacement of Retiring Board-Designated Physician, Dr. Hugh Clark.** In a letter dated July 13, 2005, Dr. Paul Sytman, M.D. requested the Board for consideration to be appointed a Board-Designated Physician. He works in the same facility as Dr. Hugh Clark who will be retiring at the end of August. It was moved by Commissioner Niederhauser and seconded by Commissioner Mackey that Chairman Dudley be authorized to contact Dr. Sytman and upon an acceptable interview approve him as a Board-Designated Physician. The motion carried.

**Request for Consideration of Method to Calculate Sea Service: Josh Weston.** Pilot aspirant Captain Josh Weston, requested that the Board and Puget Sound Pilots standardize their method of calculating sea time to coincide with that of the U.S. Coast Guard. The Board and PSP equate one day of duty time to one day of sea service. The USCG says that where a 12-hour work day is authorized and practiced, each work day may be credited as 1.5 days of sea service. Captain Weston is in hopes of qualifying to enter the PSP rider program to further his pursuit of the PS pilotage endorsement on his federal license. Considering that Captain Weston does not intend to sit for the November 2005 exam and in light of the likelihood that the PSP rider program will most likely cease after this exam, the Board chose to defer Captain Weston's question. It is by past practice that the Board equates one day of duty time to one day of sea service and will continue to do so for purposes of this upcoming exam. Future consideration will be given to the question when it is appropriate for subsequent pilot exams.

It was moved by Commissioner Hannigan and seconded by Commissioner Addington that a Board policy be established that defines the calculation of sea time to be: one day of duty time equates to one day of sea service with no multiples or reductions based upon the type of industry or the watch and schedule a certain officer has to stand. Commissioner Niederhauser reminded the Board that this issue was discussed during the rule making process and language was adopted, which will soon take effect, that was predicated on the "day for a day" practice established by the Board many years ago. The motion carried.

**Request for Consideration of Position as Equivalent to Master – WAC 363-116-075: Pat Kelly.**

At the Board's request Captain Pat Kelly submitted more detailed information documenting his sea service with his current employer Crowley Marine Services. According to Commissioner Niederhauser, Captain Kelly in his letter dated August 31, 2005, provided significant information which satisfies the interpretation of the existing Statement of Policy that the Board adopted on May 9, 2002 regarding, "*Qualifications of Pilot Applicants Under WAC 363-116-075(1) When Experience is on Vessels Employing More Than One Master*". He believes Captain Kelly has demonstrated that (1) he has the master's license for the position as required by company policy, (2) he has previous experience on that type of vessel, and (3) his duties relative to shipboard navigation, operation, and ship handling are similar to those of the sole master on one-master vessels. It was moved by Commissioner Niederhauser and seconded by Commissioner C. Davis that the current policy statement referenced above be amended as follows:

**STATEMENT OF POLICY**

**Regarding: Qualifications of Pilot Applicants Under WAC 363-116-075(1)  
When Experience is on Vessels Employing More Than One Master**

~~Under WAC 363-116-075(1), a pilot applicant desiring to be licensed must demonstrate~~

~~One year of service in ocean or near coastal waters as master of cargo, tank, or passenger vessels of 5000 gross tons or more while holding a license as a master of ocean steam or motor vessels of any gross tons or as master of near coastal steam or motor vessels of any gross tons; ---.~~

~~The Board is aware that vessel owners of certain classes of vessels, such as large passenger vessels, may require that two masters, a senior and a junior master, be employed. In some instances the junior master position may be referred to as "staff captain".~~

~~The Board will consider the time as a junior master or staff captain to be qualifying time as a master under WAC 363-116-075(1) if the pilot applicant can demonstrate clearly to the satisfaction of the Board, by copy of company policy or otherwise, that the qualifying time was obtained while on a vessel for which the owner required junior masters to (1) hold an unlimited a master's license for not less than the tonnage of the vessel, or a minimum of 1600 GRT whichever is greater, (2) have previous experience on board that type of vessel as a chief or first officer, and (3) where the duties of the junior master include responsibilities relative to the shipboard navigation, operation, and ship handling similar to the sole master on one-master vessels.~~

Commissioner Hannigan objected to revising the Board's policy and stated he would rather the Board make a determination whether or not Captain Kelly satisfies the intent of the current policy. Commissioner Addington disagreed and stated that was the same as creating an unwritten policy and that it would be more appropriate in this case to amend the Board's policy. Commissioner Niederhauser stated it is his intent that this proposed new policy not apply to any examinations given after July 1, 2008, and that the Board re-visit this matter in the near future. Several Board members echoed in agreement. The motion carried with a vote of four in favor and Commissioners Hannigan and N. Davis opposed.

With respect to Captain Kelly's request for Board determination that his work experience as chief mate for Crowley Marine Services be considered equivalent to that of master, it was moved by Commissioner Hannigan and seconded by Commissioner Niederhauser that Captain Kelly's chief mate time meets the criteria of the new Policy Statement and will be considered qualifying time. The motion carried.

**Submittal of 2006 Agency Request Legislation, Determination of.** The Board determined that there will be no Agency Request Legislation submitted for consideration during the 2006 Legislative Session.

**Consideration of New Vessel Operators: *VICTORIA CLIPPER*.** The preliminary review of Clipper Navigation's request to add five approved masters to operate the *VICTORIA CLIPPER* presented questions concerning two of the masters in their employ, Captains Dutee Dodson and David Fulton. Captain Marc Bissonnette, Director of Marine Operations at Clipper Navigation recently reported that both of them should be dropped since Captain Dodson was no longer employed with them and Captain Fulton is not serving in the capacity of master. It was moved by Commissioner C. Davis and seconded by Commissioner N. Davis that Captains Kit Carr, Graeme Heys, Michael Hayes and David Landis meet the regulatory requirements to be approved as new captains and that Captain Dutee Dodson be dropped from the current list. The motion carried. Captain Bissonnette also stated that the minimum license required to operate the *VICTORIA CLIPPER* is Master, 200 GRT (500 ITC) inland.

### **NEW BUSINESS**

**Request for Extension of Sea Service Qualifications: Casey McConville.** In an e-mail received from Casey J. McConville dated August 26, 2005, he is requesting the Board to grandfather his sea service as master to qualify him to sit for a pilot exam given after July 1, 2008, when that sea time will no longer qualify due to a modification of vessel tonnage requirements as set forth in WAC 363-116-0751. Since his question is not relative to this exam scheduled for November, 2005, it was suggested that the matter be deferred to a Board meeting early next year. Chairman Dudley stated he and Susan Cruise will research the pertinent issues and the Board's options for resolving this matter. This matter was deferred.

**Pilot's Report of Incident: *USNS WATKINS*, 8-20-05.** The Board has received the written report submitted by Grays Harbor Pilot, Captain Robert D'Angelo. It was determined that a CIC report was not necessary. While preparing to get underway from anchor to Berth 4, Aberdeen, an assist tug *CAPTAIN LES EASOM* was moving from the starboard quarter of the *USNS WATKINS* to the port quarter at the direction of the pilot when it struck the vessel. A statement by the master was also submitted by the Port of Grays Harbor. After the vessel was moored at Berth 4, it was determined that some damage to the vessel had occurred. Various reports were made by the master. It was moved by Commissioner C. Davis and seconded by Commissioner Mackey that there was no pilot involvement and that this matter be declared an "Incident with damage and without pilot error". The motion carried.

**Status of PSPD Pilot Trainee: Captain Fred Triggs.** Commissioner Niederhauser reported that Captain Triggs' six-month, 100-trip training program will terminate on September 28, 2005, and to date he has made 120 training trips. The extra twenty trips were taken in order to fulfill the requirements for completing the geographic area and at least 100 trips with 5-year pilots. The committee will meet with Captain Triggs later this month to outline the Board-approved twenty make-up trips with specific pilots within a 45-day extension. Since the last review, an additional 4 reports show below average evaluations.

**Requests for Extension of Pilot Exam Filing Deadline.** Two requests were received on September 7, 2005, by pilot aspirants to extend the pilot exam application filing deadline for purposes of completing their federal pilotage endorsements. By authority of WAC 363-116-076 Chairman Dudley granted extensions to Captains Jim Caspers and Chad Clapp, with concurrence by the Board, as follows: The October 17 deadline for filing an application stands, except for the submittal of the federal license endorsement which is extended to November 7, 2005 at 5:00 p.m. Any additional requests for filing extensions must be received by October 17<sup>th</sup> and be considered by the chairperson for action. (Ten minute break.)

**Committee Report: Policy Statement Development Regarding "In Ballast" Definition.** Due to the absence of Commissioner Lee, this report was deferred.

**Committee Report: Pilot Examination Development.** Commissioners Niederhauser and Hannigan and Susan Cruise gave an overview of the Committee's work toward the research and development of a personal service contract for the simulator portion of the November pilot exam.

Susan is working closely with OFM to understand the required procedure for entering into a contractual agreement with an entity who can provide the necessary services for the Board. A proposal for the development and administration of the simulator evaluations was submitted by the Pacific Maritime Institute for Board consideration. It was moved by Commissioner Hannigan and seconded by Commissioner Addington to direct the Chairman to enter into a sole source contract with PMI for \$10,000 for the development of the simulator evaluation according to the scope of work set forth in their proposal and to direct staff to carry forward with the necessary OFM procedures. The motion carried. It is understood that the proposal from PMI is for a total cost of \$40,600 with the difference of \$30,600 being the cost of the examination administration which will be equally divided among the applicants. Based on an estimated number of 17 applicants the proposal indicates a per applicant simulator exam fee of \$1,573.53 made payable directly to PMI.

**Trainee Evaluation Committee.** It was determined that the TEC needs to be established pursuant to WAC 363-116-078(11) and ready to begin its designated activities as soon as the WAC takes effect on October 1<sup>st</sup>. It was moved by Commissioner Hannigan and seconded by Commissioner Mackey that the members of the Pilot Exam Development Committee be named as members of the Trainee Evaluation Committee with the addition of one active licensed Puget Sound Pilot to be recommended by Captain McCurdy. The members are: Commissioners Hannigan, Niederhauser, Lee and Mackey and one additional pilot yet to be determined. The motion carried. The Board will consider the recommendation by Captain McCurdy at the next Board meeting or, if necessary, Chairman Dudley will give interim approval sooner. The Chairman of the Committee will be determined by the Committee members.

**Legal Update.** Susan Cruise requested the Board to make a determination how the trainee stipend funds are to be managed. The WAC provides for either the Board to administer the training surcharge funds or direct another organization to administer the funds. Susan has had discussions with OFM personnel to explain the unique process of collecting the surcharge through the tariff and the disbursement of the stipend payment. It is the Board's desire to direct Susan to continue with her discussions with OFM personnel to determine the most efficient and best mechanism for the stipend fund management. It was moved by Commissioner C. Davis and seconded by Commissioner Hannigan to direct Puget Sound Pilots to collect and hold the training surcharge funds beginning October 1, 2005 until otherwise directed by the Board. The motion carried.

**Administrator's Report.** The eleven new WAC rules adopted at the August 11, 2005 Board meeting were filed with the Code Reviser and will become effective on October 1, 2005. The Puget Sound Pilot Examination announcement was published and to date 32 application packets have been sent out, but roughly only twenty aspirants appear to have the appropriate qualifications. The Board's new website is on line as of today at [www.pilotage.wa.gov](http://www.pilotage.wa.gov). Judy Bell is the web master and she welcomes suggestions and other feedback. The Board's 2004 Annual Report has been completed and is posted on the web. Most of what is contained in the Commissioner's "Red Books" can be found there also, however, the contents will continue to be printed and updated for the hard-copy books. It is anticipated that "Train the Trainer" classes will begin in November for those volunteer 7-year pilots in preparation of pilot training programs starting up early next year. PMI offers a 1-day class that may be appropriate for this activity.

**Pilots' Activity Reports.** Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 781 jobs in August compared to 661 for an average of the past 3 Augusts; recently 302 jobs were dispatched in a 10-day period; 9 ships have been delayed for a total time of 16 hours and 46 minutes; Captain Stensager remains on medical leave; Captain Bock remains on medical leave and is requesting authority be given to the Chair to reinstate his license before the Board meets in October; a project involving the *USNS WATKINS* will begin mid-month for four days involving some

drifting exercises around Indian Island that will involve PS pilots; PSP is sending two pilots to Dania Beach, Florida for ten days involving a widening and deepening project in the Blair Waterway, Tacoma; gillnet season is gearing up and looks more promising this year with an agreement of more communication and cooperation among the parties; and PSP is involved with the Port of Olympia's acquisition of Weyerhaeuser Log which is relocating from Tacoma to Olympia.

Mary Nelson, Director of Finance and Administration of the Port of Grays Harbor, reported that vessel arrivals are about 50% ahead of budget projections with 102 jobs year to date; there were 7 arrivals in August which generated 19 jobs; due to the centralization of some Weyerhaeuser operations Cosmopolis and Bay City may show a decline in activity; and Captain Cooke is working and riding with Captain D'Angelo. Note: Commissioner Niederhauser will speak with Captain D'Angelo concerning the license upgrade process and his submittal of incomplete report forms concerning Captain Cooke.

**Miscellaneous Correspondence Review.** A letter of appreciation sent to Captain F.A. Coe from Captain Metruck, COTP Puget Sound, USCG, regarding his Report of Incident involving the *OOCL NETHERLANDS* was forwarded to the Board and will be placed in Captain Coe's file. PSP submitted a letter to the Board clarifying the billing process that was used when the Tall Ships were piloted this past summer. A request for a vessel exemption was received today from Pirelli High Voltage Systems who will be installing submarine cables. The vessel does not meet the criteria for exemption and the request was denied.

**Confirmation of Next Regular Meeting Date.** The next regular meeting is October 20, 2005, in the Fourth Floor Conference Room, at 2901 Third Avenue, Seattle.

**Review of Pilot Physical Examination Reports.** After reviewing the physicians' reports it was moved by Commissioner C. Davis and seconded by Commissioner Hannigan that the annual physical examination reports for Captains P.A. Giese, D.W. Mayer, W.E. Thorsen and J.E. Ward be accepted for license renewal. The motion carried. It was moved by Commissioner Hannigan and seconded by Commissioner Mackey that Chair Dudley be authorized to reinstate Captain W.A. Bock's license upon satisfactory review and acceptance of his physician's report in order for him to return to duty prior to the next Board meeting. The motion carried. Captain Stensager remains on inactive status. Dr. Hang Kim has informed the Board that Captain M.R. Flavel is fit for duty after being on medical leave from June 29 through August 23, 2005. Captain Flavel's medical condition was never initially reported to the Board. No action was taken.

The Chairman adjourned the regular session Board meeting at 1:35 p.m.

Respectfully submitted,

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Peggy Larson, Administrator

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Harry H. Dudley, Chairman

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Charles M. Davis, Vice Chairman

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Commissioner Oliver E. Mackey

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Commissioner John S. Niederhauser

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Commissioner Patrick M. Hannigan

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Commissioner Vincent Addington

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**Absent**  
Commissioner Craig W. Lee

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**Absent**  
Commissioner Andrew C. Palmer

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Commissioner Norman W. Davis