

# MEETING MINUTES

## STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

June 9, 2005

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### Present:

Chairman Dudley, Commissioners C. Davis, Mackey, Niederhauser, Hannigan, Addington, Lee, Palmer, and N. Davis

Administrator, Peggy Larson and Administrative Assistant, Judy Bell

Captain Bill Bock and Mr. Walt Tabler: Puget Sound Pilots

Mary Nelson: Port of Grays Harbor

Luis Kohls: Pacific Merchant Shipping Association

Stephen Cooke: Himself

Kelby Fletcher: Attorney for Stephen Cooke

Lawrence Seymour, Bill Sliker, Ed Marmol, Katharine Sweeney: pilot aspirants

### **PUBLIC HEARING**

A public hearing of the Board of Pilotage Commissioners was convened at 9:35 a.m. by Chairman Harry Dudley at 2911 Second Avenue, Seattle, Washington.

**WAC 363-116-185: Tariffs, and Pilotage Rates for the Grays Harbor Pilotage District.** RCW 88.16.035(4) requires the Board of Pilotage Commissioners to annually fix tariffs for pilotage services performed aboard vessels. The filed rule as proposed by the Port of Grays Harbor contains a request for an increase in the Vessel Draft Charge of \$9.01 per meter or \$2.79 per foot; a \$200 increase in the Boarding Fee per each boarding/deboarding from a boat or helicopter; and a \$10 decrease in the Pension Charge per pilotage assignment, including cancellations. A written proposal dated May 12, 2005, considered by the Board today, was submitted by Gary Nelson, Executive Director of the Port of Grays Harbor. The GHP 5-year Capital Spending Plan and 2004 year-end audited Financial Statement, previously submitted to the Board, were also considered in today's tariff determination. Oral comments in support of the proposal were presented by Mary Nelson for the Port of Grays Harbor, Luis Kohls for PMSA and Ole Mackey for the people of Grays Harbor. Commissioner Hannigan asked for clarification regarding the pilot compensation expense item. Mary Nelson responded that the numbers he was questioning were projected costs for two full-time pilots for the tariff year ahead. There was no other testimony presented. Captain Stephen Cooke introduced his attorney, Mr. Kelby Fletcher, who is assisting him with securing an employment contract with the Port. Chairman Dudley closed the public hearing at 9:50 a.m. This hearing was recorded on audiotape.

### **REGULAR MEETING**

The regular meeting of the Board of Pilotage Commissioners was convened immediately following the public hearing.

**Consideration of Preceding Hearing: WAC 363-116-185.** Following the Board's review and consideration of all written and oral testimony, it was moved by Commissioner Addington and seconded by Commissioner Palmer that the Board adopt the proposed 2005/2006 Grays Harbor Pilotage District tariff as filed with the Code Reviser and outlined in the tariff recommendation letter dated May 12, 2005 from the Port of Grays Harbor.

Specifically:

- The 2004/2005 tariff schedule shall carry over to the 2005/2006 tariff schedule with three exceptions:
  - a) The draft charges shall be amended to \$90.00 per meter or \$27.43 per foot, and . . .
  - b) The Boarding Fee category shall be amended to an amount of \$1,000.00, and . . .
  - c) The Pension Charge category shall be amended to an amount of \$180.00.

Furthermore, the new tariff as described above shall be in effect 0001 hours, August 1, 2005 through 2400 hours July 31, 2006.

Speaking to the motion, Commissioner Palmer stated his strong desire to see two pilots employed at the Port in the interest of marine safety and environmental protection.

Also speaking to the motion, Commissioner Addington stated he believes the Port is still in a very delicate balance between staying economically competitive and covering their costs. They have subsidized the pilot operation for a number of years and they are doing a good job of keeping it going and staying viable and therefore he supports the motion.

Also speaking to the motion, Commissioner Niederhauser stated he wanted to emphasize the Port's long time goal, as previously stated by Mary Nelson, which is to bring pilot compensation in Grays Harbor up to market rate.

The motion carried. (9:55 a.m.)

**Minutes.** There being no corrections or additions, the May 12, 2005 Minutes stand approved as written.

### **OLD BUSINESS**

**Consideration of Proposed Rule-Making.** The Board continued its review of the proposed WACs regarding pilot licensing qualifications and procedures. Since Susan Cruise was unable to attend today's meeting, Chairman Dudley relayed her concerns and advice on various issues as they arose in the discussion. A letter received today from Walt Tabler was the basis for several of the discussion topics. Editorial changes were made by consensus and substantive changes were made by motion, details of which are contained in the rule-making file. It was moved by Commissioner Davis and seconded by Commissioner Hannigan to file the proposed language that was finalized today with the Code Reviser by June 22, if possible, for a public hearing on July 28, or if not possible, by July 6, for a public hearing on August 11. The motion carried.

### **NEW BUSINESS**

**Consideration of Renewal of Vessel Exemption: Motor Yacht *AFFINITY*.** A petition for renewal of a vessel exemption was received regarding the foreign flagged 151', 463 gross ton Motor Yacht *AFFINITY*. Pursuant to RCW 88.16.070 and WAC 363-116-360, this vessel qualifies for an exemption from pilotage requirements and was issued an interim exemption by Chairman Dudley on May 16, 2005, subject to final Board approval at today's meeting. It was moved by Commissioner Palmer and seconded by Commissioner Addington that the Board concur with his action and renew the exemption for the *AFFINITY* for one year so long as it remains in the charge of Captain Dave Andrews. The motion carried. Commissioner Davis abstained due to a conflict of interest.

**Consideration of Renewal of Vessel Exemption: Motor Yacht *MI GAEA*.** A petition for renewal of a vessel exemption was received regarding the foreign flagged 158', 476 gross ton Motor Yacht *MI GAEA*. Pursuant to RCW 88.16.070 and WAC 363-116-360, this vessel qualifies for an exemption from pilotage requirements and was issued an interim exemption by Chairman Dudley on May 25, 2005, subject to final Board approval at today's meeting. It was moved by Commissioner Palmer and seconded by Commissioner Addington that the Board concur with his action and renew the exemption for the *MI GAEA* for one year so long as it remains in the charge of Captain Lynn "Dusty" Sackmann. The motion carried.

**Consideration of Renewal of Vessel Exemption: Motor Yacht *PIANO BAR*.** A petition for renewal of a vessel exemption was received regarding the foreign flagged 122', 342 gross ton Motor Yacht *PIANO BAR*. 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 Palmer and seconded by Commissioner Niederhauser that the Board renew the exemption for the *PIANO BAR* for one year so long as it remains in the charge of Captain Charles Johnson. The motion carried.

**Procedures for Submittal of 2006 Agency Request Legislation.** The schedule for submission of agency-sponsored legislation has been released by the Governor's office. If the Board should have any proposed legislation for consideration during the next legislative session it is due by October 17, 2005 if it has a fiscal impact, or September 30, 2005 if no fiscal impact. At this time the Board is not considering any agency request legislation.

**Committee Report: Policy Statement Development Regarding "In Ballast" Definition.** Commissioner Lee stated he would like to modify (non-substantive) the Policy Statement adopted at the March 15 Board meeting regarding the "in ballast" definition for crude oil and refined petroleum products for the Board to review next month.

**Committee Report: Pilot Examination Development.** The Board was briefed on what the committee is considering for exam development and administration with respect to the next Puget Sound pilot examination. Discussion also included issues concerning potential budget impacts. The meeting set for later today was cancelled but the committee plans to meet again before the next regular Board meeting on July 14.

**Pilots' Activity Reports.** Mary Nelson, Director of Finance and Administration of the Port of Grays Harbor, reported that there were 7 vessels and 18 jobs in May, with 5 vessels scheduled in June; assignments year to date are about 44% above tariff projections; activity at the bulk facility is anticipated to slow down in July and August; and the Port and Captain Cooke continue to negotiate an employment agreement.

**An EXECUTIVE SESSION was called from 10:15 a.m. to 11:05 a.m. for purposes of** reviewing the progress of pilot trainee Captain Fred Triggs and reviewing pilot physical examination reports. In attendance were Chairman Dudley, Commissioners C. Davis, Mackey, Niederhauser, Hannigan, Addington, Lee, Palmer and N. Davis; Judy Bell and Peggy Larson. Regular session was reconvened by the chairperson immediately following executive session.

**Three-Month Review of PSPD Pilot Trainee: Captain Fred Triggs.** Commissioner Niederhauser stated that he had completed a performance review of approximately fifty *Pilot Trainee Reports* submitted to date. Chairman Dudley indicated that the rest of the Board members had also reviewed the evaluations and determined there were some issues. It was moved by Commissioner C. Davis and seconded by Commissioner Addington that the Chairman of the Board issue a letter to Captain Triggs in essence stating that the Board has noted issues relative to his performance evaluations on some training assignments, that he should work with the Pilot Training Committee to restructure his training program for the balance of the program, and that his progress in his training program be reevaluated at the next Board meeting. The motion carried. The Pilot Training Committee is made up of the two Board members who initially drafted Captain Triggs' training program requirements, Commissioners Niederhauser and Hannigan.

**Pilots' Activity Reports, continued.** Captain Bill Bock, President, Puget Sound Pilots, reported that assignments for May were roughly 11% above tariff projections for the month; Captain Niederhauser is still on medical leave due to an injury; PSP met with Port of Tacoma officials regarding the Pier 3 extension project which will require pile driving in the Blair Waterway and coordination with General Construction; PSP plans to meet with Port of Tacoma officials regarding security issues at Terminal 4; PSP had a meeting with BP on May 18 regarding security issues but is waiting for the written follow-up response from BP; and because jobs currently have been averaging about 644/month and expected to increase during cruise season, and because 1 pilot will stop working in March in order to use comp days until he retires at age 70, and due to other issues, PSP is requesting two trainees.

Based on Captain Bock's verbal request, which will be followed up with a formal written request, it was moved by Commissioner Niederhauser and seconded by Commissioner Lee that the Board call up the last two successful candidates on the waiting list from the last pilot exam to begin training. The motion carried.

**Confirmation of Next Regular Meeting Date.** The next regular meeting date is July 14, 2005, at 9:30 a.m. at a location to be determined.

**Review of Pilot Physical Examination Reports.** After reviewing the physician's report it was moved by Commissioner Hannigan and seconded by Commissioner Addington that the annual physical examination report for Captain C.A. Johannes be accepted for license renewal. The motion carried.

Based on information received on May 13, and May 25, 2005 by Board-Designated Physicians, Captains Jay Niederhauser and Dennis Stensager respectively, were reported unable to pilot due to current medical conditions. It was moved by Commissioner Davis and seconded by Commissioner Addington that Captains Niederhauser and Stensager be temporarily relieved of pilotage duties, their licenses be declared inactive, and in order to return to active duty the Board must receive a satisfactory physician's report indicating his/her findings/recommendations as to his ability to safely perform pilotage duties. The motion included authorization for the Chairman or Acting Chairman to reinstate their licenses based upon the review of a physician's satisfactory report, subject to review by the full Board at the next regular meeting. The motion carried. Commissioner Niederhauser abstained.

The Chairman adjourned the regular session Board meeting at 2:25 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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Commissioner Craig W. Lee

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Commissioner Andrew C. Palmer

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Commissioner Norman W. Davis