

# MEETING MINUTES

## STATE OF WASHINGTON ~ BOARD OF PILOTAGE COMMISSIONERS

November 10, 2011

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Present:

Chairman: Harry Dudley

Commissioners: Norm Davis, Chuck Adams, Ned Kiley, Pat Hannigan, Dick McCurdy, Craig Lee,  
Doug Coburn, Elsie Hulsizer

Administration: Shawna Erickson, Peggy Larson

Captains Andy Coe, Don Mayer, Ivan Carlson, Dan Shaffer, Alec Newman, Larry Emerson, Del Mackenzie, Jostein Kalvoy, John Ward, Mike Blake, David Brusco, Joe Semler, Blair Bouma, Steve Moreno, John Harris, Jim Shaffer, Stuart Mork, Dave Sanders, Eric Klapperich and Mr. Walt Tabler:

Puget Sound Pilots

John McLaurin, Mike Moore, Jordan Royer, Vince Addington, Mike Jacob: Pacific Merchant Shipping Association

Captain Jim Kearns: PSPD Pilot Candidate

Captain Tom Coryell: PSPD Pilot Applicant

Captains Ben Watson, Del Kelly, Mike Gavin: Pilot Retirees

Ron Kinsey, Megan Clifford: USCG Sector Puget Sound

Brent Dibner: Dibner Maritime Associates

Bruce Horton: San Francisco Bar Pilots

Gary Lewin: Columbia River Bar Pilots

Captains Paul Amos, Anne McIntyre, Steve Woods and Mr. Kevin Davis: Columbia River Pilots

Clare Gallagher, Linda Styrk: Port of Seattle

Mark Homeyer: Crowley Marine Services

Mike Terminel: Edison Chouest Offshore

Loren Lee: Public

Bill Sharp: Holland America Line

Doug Pine: Pacific Maritime Institute

Peter Bennett: BCC

Eric Scigliano: Crosscut

Bob Young: Seattle Times

### PUBLIC HEARING

A public hearing of the Board of Pilotage Commissioners was convened at 9:30 a.m. by Chairman Harry Dudley in the Alki Conference Room at 2901 Third Avenue, Seattle, Washington.

**WAC 363-116-300: Pilotage Rates for the Puget Sound Pilotage District.** RCW 88.16.035(4) requires the Board of Pilotage Commissioners to annually fix pilotage tariffs. By Board action taken earlier this year it was determined that this PSPD annual tariff hearing would be shifted to a time later in the year in order to set an ensuing calendar year tariff rather than the typical July-to-July tariff. Financial data used in this tariff hearing includes the previous year's audited financial statement in addition to some current-year unaudited data as well as some late-year projected data. The proposed rule filed with the Code Reviser reflects one new tariff category and a range of adjustments to be charged for pilotage services in the Puget Sound Pilotage District for the 2012 tariff year.

1) The Board will consider a new tariff category proposed by PSP called the *Variable Expense Component* (VEC). PSP is proposing a VEC charge of \$700 per pilot assignment. PMSA is opposed to the addition of this new line item. The Board will consider \$0.00 (thus creating no new category) up to \$700 per assignment.

2) The Board will consider a range of across-the-board tariff adjustments between a decrease of 10% and an increase of 6.8% excluding the *Training Surcharge* Category and the *Transportation to Vessels on Puget Sound* Category. The low end of the range is proposed by the Pacific Merchant Shipping Association and the high end of the range is proposed by the Puget Sound Pilots.

Also, the Board will consider an adjustment to the Transportation Charge portions of the *British Columbia Direct Transit Charge*. PSP proposes a 2% increase. PMSA proposes no increase. The Board will consider 0% up to a 2% increase.

Subsequent to the filing of this proposed new rule, both PSP and PMSA have submitted formal written proposals to the Board reflecting modifications to their initial requests. The Board may adopt a rule that varies from the filed rule upon consideration of these proposals and all presentations and written comments from any interested party or member of the public.

All written documents submitted in accordance with the timetable established for tariff document submission were considered in today's tariff determination in addition to all other written and oral testimony from interested parties and members of the public.

Oral testimony on behalf of the Puget Sound Pilots was presented by Walt Tabler, Brent Dibner and Captain Andy Coe. Oral testimony on behalf of the Pacific Merchant Shipping Association was presented by Captain Mike Moore. Clare Gallagher from the Port of Seattle and retired pilots Captain Ben Watson and Captain Mike Gavin also provided oral testimony. Presentations and rebuttals were made in accordance with previously established "ground rules". The public hearing was closed by Chairman Dudley at 1:15 p.m.

### **REGULAR MEETING**

The regular meeting of the Board was convened at 1:50 p.m. by Chairman Harry Dudley.

**Consideration of Preceding Hearing: WAC 363-116-300.** All written and oral testimony was reviewed and considered by the Board. Motion: Kiley/Adams – the Board not create the new *Variable Expense Component* category, secondly that there be no adjustment made to the tariff. Friendly amendment: Hannigan – increase the tariff by 2.5% – the motioner Kiley stood on his motion - Failed. Motion to amend: Hannigan/McCurdy – increase the tariff by 2.5% - Failed with a vote of 2 in favor and 6 opposed. Original motion: - Carried with a vote of 6 in favor and 2 opposed. (2:20 p.m.)

The effective period of the new tariff is from 0001 hours on January 1, 2012 through 2400 hours on December 31, 2012.

**Minutes.** Consideration of the October 13, 2011 Minutes was deferred.

### **OLD BUSINESS**

**Discussion Concerning Setting the Number of Pilots in the Puget Sound Pilotage District.** There was no discussion about changing the number of pilots. The set number is currently 52 in the Puget Sound District. This item will remain on future agendas for discussion purposes only until a resolution for change has potential.

**Consideration of Licensure of PSPD Pilot Candidate: Captain James Kearns.** This item remains on each monthly agenda in order to re-evaluate Captain Kearns's status relative to his imminent licensure. At this time there is no change in status; licensure approved but delayed. It appears there may be one open position in the PSPD if Captain Niederhauser retires as projected.

**Discussion of Adoption of Board "Information Bulletin 11-1".** This item was deferred.

**Proposed Rule Making: WAC 363-116-200: Duties of Pilots** – upon further review of the proposed draft it was determined that by setting a threshold for reporting an incident which did not meet certain criteria, it would mean that telephone notification to the Board would be eliminated, stakeholders would not be notified in advance of the Board meeting at which this report would be considered, and if the vessel left the area within the 10-day reporting period then access to it and its personnel would be lost. This new proposed amendatory language was stricken. Motion: Adams/Lee – prepare an amended draft and file a CR-102 for a public hearing on January 12, 2012 – Carried.

**WAC Chapter 363-11: Practices & Procedures - Motion**: Adams/Lee – accept the proposed draft and file a CR-102 for a public hearing on January 12, 2012 – Carried.

WACs 363-116-0751, 076, 077, 078, 080, 083 and 084 – Motion: Hulsizer/Lee - file a CR-102 for a public hearing on January 12, 2012 after final review of the proposed draft by the Legislative/WAC Committee – Carried.

**NEW BUSINESS**

**Issuance of Pilot Trainee License for Captain Warren Carley and Captain William Lowery.** Captains Warren “Bud” Carley and William Lowery have accepted their Board-approved training programs. Motion: Lee/Davis - issue Captain Warren Carley *Trainee License #28* and Captain William Lowery Trainee License #29 intended for commencement of training on December 1, 2011 – Carried. Training orientation will be held on November 18, 2011 at the PSP Seattle office.

**Approval of Pilot License Upgrade Program: Captain Stephen Semler.** Captain Stephen Semler is nearing completion of his fourth license year. Motion: Hannigan/Lee - approve the license upgrade program for Captain Semler as drafted - Carried.

**Consideration of Request for Vessel Exemption:**

**Motor Yacht *INDIGO*** – 105’, 224 gross tons, Marshall Islands registry, Captain Steve Hubbard. Motion: Coburn/Adams – concur with Chair’s granting of interim three-month exemption – Carried.

**Pilot’s Report of Marine Safety Occurrence: *ATB COMMITMENT, 9-27-11***

Enroute from PA to Cherry Point	Lost port main engine in transit more than once. Tugs were called to escort and assist in docking with one reliable ship’s engine.	Navigational Safety Concern	<u>Motion</u> : Hannigan/Adams File as a Marine Safety Occurrence	Carried
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**Pilot’s Report of Marine Safety Occurrence: *CAP PRESTON, 10-2-11***

Pier 46	Loss of power during undocking. Engine restored and vessel anchored in Elliott Bay for inspection.	Navigational Safety Concern	<u>Motion</u> : Lee/Kiley File as a Marine Safety Occurrence	Carried
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**Pilot’s Report of Marine Safety Occurrence: *GENCO PROVENCE, 10-3-11***

Enroute from Anacortes to PA Stn	Engine problems due to sticking exhaust valve. Anchored in Port Angeles for repairs.	Navigational Safety Concern	<u>Motion</u> : Lee/Hulsizer File as a Marine Safety Occurrence	Carried
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**Pilot’s Report of Marine Safety Occurrence: *HANJIN OSLO, 10-12-11***

Terminal 46, Seattle	No engine response during docking. Used tugs to assist.	Navigational Safety Concern	<u>Motion</u> : Davis/Adams File as a Marine Safety Occurrence	Carried
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**Pilot’s Report of Marine Safety Occurrence: *NORTH STAR, 10-14-11***

South-bound traffic lane	Interference with yacht motorist who lacked situational awareness and any knowledge of rules-of-the-road.	Near-Miss	<u>Motion</u> : Lee/Adams File as a Marine Safety Occurrence	Carried
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**Pilot’s Report of Marine Safety Occurrence: *PUGET SOUND, 10-26-11***

Port Angeles boarding area	While boarding the NANUQ from the pilot boat, the pilot ladder did not hold its position. The pilot was able to maintain his grasp of the hand rails and was then pulled back onto the pilot boat by the deck hand. Michael Terminel, Edison Chouest Offshore (Alaska) personally appeared to describe the occurrence as he knew it and shared photos of the ladder rigging, etc.	Navigational Safety Concern	<u>Motion</u> : Lee/Adams File as a Marine Safety Occurrence	Carried
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**Pilot's Report of Marine Safety Occurrence: CAROLINE MAERSK, 10-24-11**

East Waterway Seattle	Engine problems during undocking and maneuvering out of waterway. Vessel was towed and anchored in Elliott Bay.	Navigational Safety Concern	Motion: Lee/McCurdy File as a Marine Safety Occurrence	Carried
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**Pilot's Report of Marine Safety Occurrence: HYUNDAI SHANGHAI, 10-27-11**

Elliott Bay Seattle	Engine failure while turning into position to leave the bay. Engine controls tested and responsive. Tugs ready. VTS gave permission to proceed to Port Angeles.	Navigational Safety Concern	Motion: Kiley/Adams File as a Marine Safety Occurrence	Carried
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**Pilot's Report of Incident: PS Pilot Gordon Wildes – LILY OLDENDORFF, 10-4-11**

Upper turning basin – Hylebos Waterway	Vessel made contact with dock while turning.	No injuries. No vessel damage.	Deferred while investigation is ongoing.	
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**Pilot's Report of Incident: GH Pilot Robert D'Angelo - PARTAWATI, 10-21-11**

Terminal 1, Aberdeen	During the undocking process, one of the three head lines was picked up in the wheel of the tug. A second tug was called to assist.	Tug line damage	Motion: Adams/Davis File as an Incident with damage and no pilot error.  Motion: Hannigan/Lee File as correspondence.	3 yes 3 no 2 abst Failed ----- 4 yes 3 no 1 abst Carried
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Commissioner Coburn continues to furnish vessel owners/agents with copies of these reports to give them an opportunity to comment or attend a Board meeting.

**Committee Reports.**

**Trainee Evaluation Committee:**

- The TEC met on November 3<sup>rd</sup>.
- Pilot trainee Captain Fred Engstrom recently missed a “hard to get trip” to Bellingham and based on past practice the TEC is recommending a reduction in his monthly stipend. Motion: Hannigan/McCurdy – reduce the next stipend payment to Captain Engstrom by \$1,000 - Carried.
- Training status of all trainees was reviewed - Captain Kearns is continuing with post-training graduate studies; Captain Anacker is finishing his federal license requirements for completion of his full PS pilotage endorsement and has his final local knowledge exam left to take; Captain Anthony trained part of October and November and will have his stipend adjusted accordingly; Captain Engstrom is finishing the first phase of his training program – the observation phase and will soon begin the second phase – training; and Captains Carley and Lowery will begin training December 1<sup>st</sup> after completing an orientation session on November 18<sup>th</sup>.

**Pilot Exam Committee:** Proposed amendatory WAC language has been drafted by the Committee and will be circulated to the Board. Finalization of these rule modifications will be followed by RFP development in preparation for the next pilot exam.

**Legislative/WAC Committee:** No Report.

**Tariff Policy Committee:** No Report.

**Activity Reports.** Gary Nelson, representing Port of Grays Harbor, sent in a written report stating there were 9 ship arrivals in October and 62 y-t-d arrivals through October 31<sup>st</sup> for a y-t-d total of 134 jobs; Captain D'Angelo was on duty in October and the first part of November while Captain Cooke attended simulator training at Pacific Maritime Institute in Seattle.

Captain Andy Coe, representing Puget Sound Pilots: No Report.

Mike Moore, representing Pacific Merchant Shipping Association: No Report.

**Correspondence Review.** The Board was sent a copy of a letter from Arrow Launch Service Inc. to the Commissioner of Customs and Border Protection. They are responding to a notice of penalty or liquidated damages incurred and demand for payment regarding an incident on August 4, 2011 in Anacortes, WA involving a Puget Sound Pilot.

**Legal Update.** Captain Nelson has requested a change in judges which, if granted, will most likely result in a new schedule for his trial. Captain Sweeney has filed a gender discrimination lawsuit against the Board which is set for trial on April 15, 2013.

**Legislative Update.** Guy Bowman and Peggy are working with a policy analyst in the Governor's Office on a re-draft of our proposed bill which then will need OFM approval prior to gathering sponsorship. Walt Tabler reported that legislation regarding private yacht statutes is forthcoming.

**BPC Staff Report.** The Governor's office notified Peggy that Captain Don Mayer's application is being considered to replace Captain Dick McCurdy at the end of his term in late December. Our American flag representative, Captain Craig Lee will continue to sit until his replacement is appointed. One applicant is currently being considered.

**Confirmation of Next Regular Meeting Date.** The next regular meeting is scheduled for Thursday, December 8, 2011. Motion: Lee/Hannigan - due to the lack of a quorum, this meeting is canceled - Carried. The next regular meeting will be held on January 12, 2012 in the Alki Conference Room, 5<sup>th</sup> floor, 2901 3<sup>rd</sup> Avenue, Seattle.

**Review of Pilot/Trainee Physical Examination Reports.** Motion: Lee/Kiley - accept the physicians' reports for Captains J.A. Hannuksela and G.P. Thoreson for annual pilot license renewal and Captains W.M. Carley and W.W. Lowery for initial training licensure - Carried. Captain J.E. Ward was declared unfit for duty on 10-31-11 and was temporarily relieved of duty due to a medical condition. Captain S.D. Semler was declared unfit for duty on 11-4-11 and was temporarily relieved of duty due to a medical condition. Motion: Lee/Adams – empower Chairman Dudley to review and accept, if satisfactory, the physical exam reports for Captain S.D. Semler and Captain J.E. Ward for purposes of reinstating their licenses to active status, if necessary, in order to return to work; action to be affirmed by the Board at the next regular meeting – Carried. Captain Marmol remains on medical leave.

There being no further business to come before the Board, Chairman Dudley adjourned the regular session Board meeting at 4:05 p.m.

Respectfully submitted,

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Peggy Larson, Executive Director

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Harry H. Dudley, Chairman

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Commissioner Charles F. Adams

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Commissioner Edmund I. Kiley

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Commissioner Patrick M. Hannigan

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Commissioner Richard F. McCurdy

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Commissioner Craig W. Lee

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Commissioner Douglas S. Coburn

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Norman W. Davis, Acting Vice Chairman

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Commissioner Elsie J. Hulsizer