

MEETING MINUTES

STATE OF WASHINGTON ~ BOARD OF PILOTAGE COMMISSIONERS

June 19, 2013

Present:

Chairman: Harry Dudley

Commissioners: Norm Davis, Chuck Adams, Don Mayer, Ed Marmol, Phil Morrell

Administration: Shawna Erickson, Peggy Larson

Jonathan Ward, Verne Justice, Bill Lowery, Pat Kelly and Walt Tabler: Puget Sound Pilots

Mike Moore, Jordan Royer: Pacific Merchant Shipping Association

Gary Nelson: Port of Grays Harbor (*by telephone*)

Greg Krauss: USCG Sector Puget Sound

Lou Paulsen: Port of Tacoma

Loren Lee: Public

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:40 a.m. by Chairman Harry Dudley in the Alki Conference Room at 2901 Third Avenue, Seattle, Washington.

Minutes. The May 14, 2013 Regular Meeting Minutes stand approved as written.

OLD BUSINESS

State Pilot Licensing Requirements. Chairman Dudley re-introduced his draft Statement of Policy and explained the rationale for its purpose and application. Motion: Mayer/Marmol – adopt the proposed Statement of Policy as discussed and modified regarding *“Interpretation of the phrase “...person not holding a license as a pilot...” and the phrase “...pilot rates payable...” as used in RCW 88.16.130.”* – Carried. (See attached Statement of Policy) This new policy cannot be applied retroactively to the issue at hand concerning Captain F.A. Coe; however, its adoption was determined necessary in order to properly address similar circumstances in the future. Commissioner Adams as Chair of the Legislative/WAC Committee will take on the task of developing proposed rules to transform these policy provisions into appropriate WAC provisions. At the Board’s request, Chairman Dudley, in consultation with the Board’s attorney, proceeded with the conduct of an investigation into the matter of Captain F.A. Coe’s U.S. government license status. Due to its administrative (not navigational) nature, Peggy Larson was designated as the investigator. She prepared a timeline of events which was presented to the Board for its consideration. Motion: Adams/Davis – Commissioner Adams will draft a letter for the Board’s review that will complete the file on this matter – Carried.

Comparison of Puget Sound Pilots’ Year-end Projections to Actual – 2012 Income and Expenses.

Shawna Erickson presented her comparative revenue numbers to the Board – projected versus actual revenue per pilot as reported by PSP. She showed that although PSP projected 2012 individual net income per pilot to be \$336,000 it turned out to be \$361,000 as reported by PSP in their annual financial statement - \$25,000 higher per pilot than what PSP expected. Walt Tabler explained that \$18,000 of this \$25,000 increase was because PSP was short 3 pilots. Additionally, he noted that traffic had increased as did revenue per assignment. Staff pointed out that the number of jobs in 2012 (7,769) was 150 assignments more than 2011 (7,619). PMSA pointed out that if Walt was using the Target Assignment Level (145), then a 3-pilot shortfall would have been another 435 assignments instead of 150. PMSA asked if PSP had ever made a request to add 3 pilots in 2012. Peggy Larson stated that the issue was on the agenda for the first 8 months of the year and that in August the Board added 1 pilot per the motion made by PSP for 1 (not 3) additional pilot/s. PMSA reported that based on the BPC staff spreadsheet, total revenue had increased by more than \$700,000 year-to-date and that revenue per assignment had increased by 6.5% which is more than double the 3% tariff increase that went into effect on January 1st. PSP then presented a document *“2013 PSP Revenue and Traffic Mix – Predicted vs. Actual”* comparing total revenue y-t-d to their own “prediction” of anticipated revenue, showing they are only up \$400,000 over their prediction. PMSA reiterated that the increase in revenue was more than that. The Board requested PSP to continue to submit this same document monthly for tracking purposes.

NEW BUSINESS

Consideration of Request for Vessel Exemption:

Motor Yacht ANTARES – 130’, 298 gt, Marshall Islands registry, Captain Michael Smith.
Motion: Davis/Morrell – concur with Chair’s granting of a one-year exemption – Carried.

Motor Yacht ICE BEAR – 171’, 614 gt, Cayman Islands registry, Captain C. Brendan Butler.
Motion: Davis/Morrell – concur with Chair’s granting of a renewal of exemption – Carried.

Motor Yacht EVVIVA – 164’, 492 gt, Cayman Islands registry, Captains Joe Trailer/Nick Bengé.
Motion: Davis/Morrell – concur with Chair’s granting of a renewal of exemption – Carried.

Motor Yacht SPIRIT OF ULYSSES – 76’, 94 gt, UK registry, Captain Richard Maybin.
Motion: Davis/Morrell – concur with Chair’s granting of a three-month exemption – Carried.

Motor Yacht A2 – 150’, 458 gt, Cayman Islands registry, Captain Peter Pexton.
Motion: Davis/Morrell – concur with Chair’s granting of a three-month exemption – Carried.

Motor Yacht ISLANDER – 85’, 155 gt, Cayman Islands registry, Captain David Hayes.
Motion: Davis/Morrell – concur with Chair’s granting of a renewal of exemption – Carried.

Motor Yacht AFTER EIGHT – 151’, 498 gt, UK registry, Captain Grant Lindsay.
Motion: Davis/Morrell – concur with Chair’s granting of a renewal of exemption – Carried.

Pilot’s Report of Marine Safety Occurrence: MCT ALIOTH, 5-9-13

Inbound to Port of Grays Harbor	Recurring compass error.	Navigational Safety Concern	<u>Motion:</u> Davis/Mayer File as a Marine Safety Occurrence – Carried.
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Pilot’s Report of Marine Safety Occurrence: HTC BRAVO, 5-19-13

Near Buoys #6 and #8 Grays Harbor	While transiting outbound, the vessel did not steady up on the course as directed. Pilot diverted the vessel to an alternative course. A trainee was onboard observing.	Near Miss	<u>Motion:</u> Davis/Mayer File as a Marine Safety Occurrence – Carried.
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Pilot’s Report of Marine Safety Occurrence: SELINDA, 5-22-13

Pier 3N, Everett	Unresponsive engine while docking.	Navigational Safety Concern	<u>Motion:</u> Mayer/Davis File as a Marine Safety Occurrence – Carried.
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Observed Marine Safety Occurrence regarding the tug MUSSEL

Tacoma Harbor	Pilot observed the capsizing and partial sinking of the tug, MUSSEL while assisting the COASTAL TRADER.	No Action Necessary.
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Approval of Pilot License Upgrade Programs: Captain Fred Engstrom is nearing completion of his first license year and Captains Jim Hannuksela and George Thoreson their fifth. Motion: Mayer/Marmol - approve the license upgrade programs for these three captains as drafted by the TEC - Carried.

2013 Annual Tariff Hearings Preparation. Draft timetables for tariff document submission were reviewed and adjusted. Motion: Adams/Marmol – adopt the proposed schedules as adjusted - Carried. 2013 tariff hearings will be held October 15th for the GHPD and November 15th for the PSPD.

Committee Reports.

Trainee Evaluation Committee:

- The TEC met on June 18.
- Trainee Orientation was held on May 31st for Captains Coleman, Galvin and Lichty.
- Training Program progress was reviewed for Captains Coryell, Brouillard, White, Coleman, Galvin and Lichty. Captains Coryell and Brouillard will be invited to the next TEC meeting in July as they are nearing completion of their training programs.
- Captain David Surface will start training part-time in the GHPD on August 1st.
- Motion: Mayer/Davis – invite the next three people on the waiting list to begin training on October 1st, based on a recent PSP retirement survey, not traffic statistics – Carried.

- Each new trainee as they are invited to enter his/her training program will receive a letter from the Board which sets out their responsibilities as a trainee. This letter formerly was sent out as each trainee entered training but now will be sent out earlier, as each is invited into training. PPU acquisition and training is the responsibility of the trainee in conjunction with PSP's LLC, *Pilot Technology Services*, or the Port of Grays Harbor.

Legislative/WAC Committee: Commissioner Adams will be drafting amendments pertinent to those referenced in the Statement of Policy adopted earlier today.

Tariff Policy Committee: Chairman Dudley presented a DRAFT document entitled "*Information to Accompany Tariff Proposals*" that was sent to the major stakeholders from the Tariff Policy Committee for comment. Finalization of this document will come prior to the tariff hearings later this fall.

Activity Reports. Gary Nelson, representing Port of Grays Harbor, Captain Jonathan Ward, representing Puget Sound Pilots, and Captain Mike Moore, representing Pacific Merchant Shipping Association, offered current and projected statistical data as well as updates on current maritime events. PSP announced they signed a contract with NavSim Technology to purchase 59 Portable Pilot Units. They also intend to sign a contract with Crawford Nautical School in Ballard to perform training in Port Townsend at the Northwest Maritime Center beginning sometime in August.

Legal Update. Chairman Dudley reported on behalf of the Board's Attorney General (AG) representatives that the trial in the case of Captain Sweeney has been continued to February, 2014 at the request of the plaintiff. The Captain Nelson administrative case has been remanded to the Administrative Law Judge. The Board's AG representative is researching possible courses of action. The Chairman reminded Board members that they may ask that the AG representatives attend any meeting in person or by phone if there are legal questions the Board would like answered.

BPC Staff Report. Captain Dan Shaffer intends to phase out of the TEC within the next few months. New dates for the Regional Pilotage Conference were discussed and will be proposed to the stakeholder groups for comment.

Confirmation of Next Regular Meeting Date. The next regular meeting will be Wednesday, July 31st at 9:30 a.m. in the Alki Conference Room, 5th floor, 2901 3rd Avenue, Seattle. Future meeting dates are set as follows: September 10, October 15, November 15 and December 10. (No August meeting is set.)

Review of Pilot/Trainee Physical Examination Reports. Motion: Mayer/Marmol - accept the physicians' reports for Captains M.E. Blake, B.W. Bouma, I.J. Carlson, G.D. Hurt, B.L. Michelson, S.E. Mork, L.A. Seymour and D.L. Shaffer for annual pilot license renewal - Carried.

There being no further business to come before the Board, Chairman Dudley adjourned the regular session Board meeting at 2:05 p.m.

Respectfully submitted,

Peggy Larson, Executive Director

Harry H. Dudley, Chairman

Norman W. Davis, Vice Chairman

Commissioner Charles F. Adams

Commissioner Donald W. Mayer

Commissioner Philip Morrell

Absent

Commissioner Elsie J. Hulsizer

Absent

Commissioner Edmund I. Kiley

Commissioner Edmund Marmol

Absent

Commissioner J. Grant Stewart



STATE OF WASHINGTON
BOARD OF PILOTAGE COMMISSIONERS

STATEMENT OF POLICY

REGARDING: Interpretation of the phrase “...person not holding a license as a pilot...” and the phrase “...pilot rates payable...” as used in RCW 88.16.130.

It is the policy of the Board that for the purpose of applying the provisions set forth in RCW 88.16.130, the phrase, “person not holding a license as a pilot” shall mean a person who has either never been issued a Washington State Pilot License in accordance with the Pilotage Act (RCW 88.16) or a person who has a Washington State Pilot License which has been permanently or temporarily rendered inactive for piloting by the application of provisions of the RCW or WAC.

Actions which permanently or temporarily render a Washington State Pilot License inactive for piloting include but are not limited to:

1. The pilot has been declared unfit for duty by a Board-Designated Physician.
2. The license has been revoked or suspended in accordance with any provisions of RCW 88.16.100.
3. The license has been revoked or suspended in accordance with the provisions of WAC 363-116-115.
4. The license has been suspended in accordance with WAC 363-116-370.
5. The license has been summarily or temporarily suspended in accordance with WAC 363-116-420.
6. The license has expired due to the age of the pilot per RCW 88.16.090(2)(a)(ii).
7. The license has been canceled due to the retirement of the pilot.
8. The pilot has failed to provide a copy of a currently valid United States government license with radar endorsement as required by WAC 363-116-110(1). Errors or delays caused by the United States in issuing said license/endorsement are no bar to the application of this paragraph.

9. The license has not been renewed as required by RCW 88.16.090(7).
10. The pilot has failed to remit the fee required by RCW 88.16.090(7) and WAC 363-116-070.
11. The pilot has failed to take or is unable to pass the physical examination prescribed by RCW 88.16.090(8).
12. The license is inactive for piloting as the result of the proper application of any other provision of the RCW or WAC.

It is further the policy of the Board that the provisions of RCW 88.16.130 shall not apply to a pilot who pilots a vessel which exceeds the limitations placed on the pilot's license as provided by RCW 88.16.105 and WAC 363-116-082 if such pilot was dispatched to the assignment due to an error in the data associated with the vessel tonnage or other circumstance beyond the pilot's control and said pilot is unable to obtain a relief in a timely manner such as to put the vessel at risk. The Board will evaluate such situations on a case-by-case basis and may apply RCW 88.16.130 if it determines that the error was caused by the pilot.

It is further the policy of the Board that the phrase, "...pilot rates payable..." as used in RCW 88.16.130 shall mean all the tariff charges specified in the WAC that apply to that portion of a transit during which the person acted as the pilot in control of the navigation of the vessel while not holding a valid license as a pilot as described above. Such charges include the LOA rate, tonnage charges, boarding charges, waterway and bridge charges, etc. Said charges shall also include the transportation charge applicable to the assignment.

It is further the policy of the Board that such rates shall be paid by the pilot to the Washington State Treasurer for deposit in the Pilotage Account as specified in WAC 363-116-070. Such rates paid by a pilot in accordance with RCW 88.16.130 as interpreted by this Statement of Policy shall not relieve the vessel from paying the tariff as specified in the WAC.